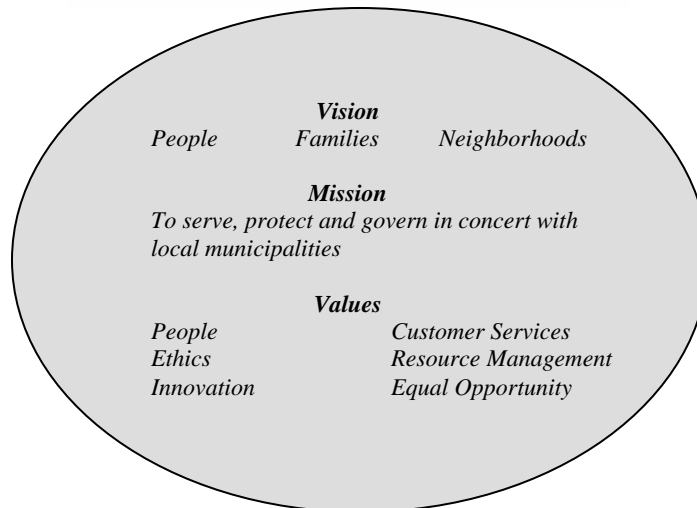




## FULTON COUNTY



### PURCHASING DEPARTMENT INVITATION TO BID NO. 05ITB21000C-BL

## Utility Bill Payment Centers For Finance Department

**BID DUE TIME AND DATE:** 11:00 A.M., Local Time, October 26, 2005  
**PRE-BID CONFERENCE;** 2:00 P.M., October 13, 2005  
**PURCHASING CONTACT:** William Long at (404) 730-7660  
**E-MAIL:** [william.long@co.fulton.ga.us](mailto:william.long@co.fulton.ga.us)

**LOCATION:** FULTON COUNTY PURCHASING DEPARTMENT  
130 PEACHTREE STREET, S.W., SUITE 1168  
ATLANTA, GA 30303

# **TABLE OF CONTENTS**

## **BID DOCUMENTS AND REQUIREMENTS**

---

### **Table of Contents**

#### **Invitation to Bid**

- Purpose
- Description of Project
- Scope of Work Summary
- Term of Contract
- No Contact Provision
- Bid Contact
- Basis of Award
- Pre-Bid Conference

#### **Section 1**

##### **Instructions to Bidders**

- Contract Documents
- Addenda and Interpretations
- Bidder's Modification and Withdrawal of Bids
- Addenda and Interpretations
- Site Examination
- Bid
- Bid and Contract Security
- Right to Reject Bids
- Applicable Laws
- Examination of Contract Documents
- Termination
- Indemnification and Hold Harmless Agreement
- Bid Opening
- Determination of Successful Bidder
- Wage Clause
- Employment of Labor
- Notice of Award of Contract
- Execution of Contract Documents
- Joint Venture
- Contractors Compliance with Procurement
- Availability of Funding
- Purchasing Bid Requirements

#### **Section 2**

##### **Bid Form**

# **TABLE OF CONTENTS**

## **BID DOCUMENTS AND REQUIREMENTS**

---

### **Section 3**

#### Purchasing Forms & Instructions

- Form A - Non-Collusion Affidavit of Prime Bidder
- Form B - Non-Collusion Affidavit of Sub-Contractors
- Form C - Certificate of Acceptance of Request for Bid Requirements
- Form D - Certification Regarding Debarment
- Form E - Corporate Certificate
- Form F - Non-Conflict of Interest Certification

### **Section 4**

#### Bid Bond Requirements

#### Certificate as To Corporate Principal

### **Section 5**

#### Contract Compliance Requirements

##### Non-Discrimination in Contracting and Procurement

##### Required Forms and EBO Plan

##### Exhibit A – Promise of Non-Discrimination

##### Exhibit B – Employment Report

##### Exhibit C – Schedule of Intended Subcontractor Utilization

##### Exhibit D – Letter of Intent to Perform As a Subcontractor or Provide Materials or Services

##### Exhibit E – Declaration Regarding Subcontracting Practices

##### Exhibit F – Joint Venture Disclosure Affidavit

##### Exhibit G – Prime Contractor/Subcontractor Utilization Report

### **Section 6**

#### Insurance Information/Requirements

### **Section 7**

#### Contractual Agreement

### **Section 8**

#### A. Performance Bond Requirements

#### B. Payment Bond Requirements

### **Section 9**

#### General Conditions

### **Section 10**

#### Special Conditions

### **Section 11**

#### Pricing Forms

---

## **INVITATION TO BID #05ITB21000C-BL**

### **UTILITY BILL PAYMENT CENTERS**

#### **Purpose:**

To provide Fulton County water and sewer customers walk-in payments services at locations within Fulton County's water service area.

#### **Description of Project:**

Fulton County provides water and sewer services north of the Chattahoochee River. The County's water service area encompasses the City of Alpharetta, portions of the City of Roswell and the unincorporated areas therein. Currently, the County has over 68,000 water and sewer accounts, the majority of which pay their bills by mail or electronically. To respond to customer requests for payment centers within the service area, the County is requesting bids from qualified parties to provide utility bill payment services for the County's water and sewer customers in the County's water service area.

#### **Scope of Work Summary:**

Fulton County is seeking bids from a Contractor(s) to provide a network of bill payment locations capable of accepting walk-in-payments. Payment may be made in cash, certified check or money order. Personal checks will not be accepted. The Contractor must have the capability to transmit payment funds and data electronically to Fulton County Revenue Accounts. Payment data must be submitted to and received by Fulton County the same day that payment is made by customers. The Contractor must be able to transmit payment files over a Virtual Private Network. Fulton County must be able to access payment information in computer real-time processing. Daily confirmations and reports must be provided. The ability to customize reports must be available.

The Contractor must have staff available during business hours (8:00 am to 7:00 pm) to address inquiries from the County or Fulton County water customers.

Fulton County will have the right to approve payment locations. Payment locations will be open on weekends and during evenings.

The Contractor must be licensed and bonded and must supply a Performance and Payment Bond.

Fulton County will not be responsible for advertising or promoting the Contractor's services

Contractor will be responsible for maintaining accurate records of all documents, accounting records and other relative evidence. These records should remain on

---

file for a minimum of three (3) years. All records should be available to the County for review upon request. The County may examine and copy at reasonable times.

The Contractor shall submit one hundred percent (100%) of all bill payments to Fulton County. There shall be no cost to Fulton County. The Contractor will be paid by levying a charge to the customer that shall not exceed two dollars (\$2.00) per transaction.

**Term of Contract:**

Services will be contracted for a term of one (1) year with four (4) one (1) year renewal options pending approval by the Board of Commissioners, vendor satisfactory performance and the availability of departmental appropriated funding.

**No Contact Provision**

It is the policy of Fulton County that the evaluation and award process for County contracts shall be free from both actual and perceived impropriety, and that contacts between potential vendors and County officials, elected officials and staff regarding pending awards of County contracts shall be prohibited.

- A. No person, firm, or business entity, however situated or composed, obtaining a copy of or responding to this solicitation, shall initiate or continue any verbal or written communication regarding this solicitation with any County officer, elected official, employee, or designated County representative, between the date of the issuance of this solicitation and the date of the County Manager's recommendation to the Board of Commissioners for award of the subject contract, except as may otherwise be specifically authorized and permitted by the terms and conditions of this solicitation.
- B. All verbal and written communications initiated by such person, firm, or entity regarding this solicitation, if same are authorized and permitted by the terms and conditions of this solicitation, shall be directed to the Purchasing Agent.
- C. Any violation of this prohibition of the initiation or continuation of verbal or written communications with County officers, elected officials, employees, or designated County representatives shall result in a written finding by the Purchasing Agent that the submitted Bid or proposal of the person, firm, or entity in violation is "non-responsive", and same shall not be considered for award.

---

## **Bid Contact**

Information regarding the bid, either procedural or technical, may be obtained by contacting William Long, Chief Assistant Purchasing Agent [william.long@co.fulton.ga.us](mailto:william.long@co.fulton.ga.us), at (404) 730-7660, Fulton County Department of Purchasing. Information regarding the bid requirements may be obtained by using the following procedure. Inquiries must be submitted in writing to;

Fulton County Purchasing Department  
Attn: William Long  
130 Peachtree Street, S.W. Suite 1168  
Atlanta, GA 30303  
Phone: (404) 730-4201  
Fax: (404) 893-1744  
Reference Bid # 05ITB210000C-BL

## **Basis of Award**

The Contract, if awarded, will be awarded to the lowest responsive and responsible bidder. No bid may be withdrawn for a period of sixty (60) days after the date of bid opening except as permitted by O.C.G.A., §36-91-41 et seq., as amended. Each Bid must be accompanied by a Bid Bond in accordance with the Bid Bond Requirements provided in the Contract Documents, on a Surety Company's Standard Bid Bond Form acceptable to the County in an amount no less than 5% of the amount bid. The successful bidder will be required to furnish a Performance Bond and Payment Bond, **on or before** the issuance of Notice to Proceed, each in the amount of 100% of the Contract Amount. All other required Contract Documents must be fully completed and executed by the Contractor and his/her Surety, and submitted to the Owner **on or before** the issuance of the Notice to Proceed.

## **Pre-Bid Conference**

Date: October 13, 2005  
Time: 2:00 PM, Local Time  
Location: Fulton County Purchasing Department, Public Safety Building  
130 Peachtree Street, S.W. Suite 1168  
Atlanta, GA 30303

A pre-bid conference will be held in the Fulton County Purchasing Department Conference Room, located at 130 Peachtree Street, S.W. Suite 1168, Atlanta, Georgia 30303. ***Inquiries regarding the solicitation either technical or otherwise may be submitted in writing prior to the pre-bid conference and will be addressed at the pre-bid conference.*** Any additional questions asked at the pre-bid conference must be submitted in written form at the pre-bid

---

conference and will be responded to in the form of an addendum with the County's official responses.

The Pre-bid conference will be conducted for the purpose of explaining the County's bid process, the specifications/technical documents, and to provide and initial verbal, non-binding verbal response to questions concerning these bid specifications and to discuss issues from the bidders perspective. However, no verbal response provided at the pre-bid conference binds the County. Only those responses to written and responded to by the County in written communications will be official.

**END OF SECTION**

---

## SECTION 1

### INSTRUCTIONS TO BIDDERS

#### A. **Contract Documents**

The Contract Documents include the Invitation to Bid, Instructions to Bidders, Contractor's Bid (including all documentation accompanying the Bid and any post-Bid documentation required by the County prior to the Notice of Award), Bonds, all Special Conditions, General Conditions, Supplementary Conditions, Specifications, Drawings and addenda, together with written amendments, change orders, field orders and the Construction Manager's written interpretations and clarifications issued in accordance with the General Conditions on or after the date of the Contract Agreement. Shop drawing submittals reviewed in accordance with the General Conditions, geotechnical investigations and soils report and drawings of physical conditions in or relating to existing surface structures at or contiguous to the site are not Contract Documents. The Contract Documents shall define and describe the complete work to which they relate.

- B. **Bidder's Modification and Withdrawal of Bids:** A Bidder may modify or withdraw its bid by written request, provided that the request is received by the County prior to the bid due date and time at the address to which bids are to be submitted. Provided further, that in case of an electronic request (i.e. facsimile, e-mail, etc.) a written confirmation thereof over the authorized signature of the Bidder must be received by the County at the address to which original Bids are to be submitted within three (3) calendar days after issue of the electronic message. Following withdrawal of its bid, the Bidder may submit a new, providing delivery is affected prior to the established bid opening date and time. **No bid may be withdrawn after bid due date for sixty (60) calendar days.**

- C. **Addenda and Interpretations:** No interpretations of the meaning of the Specifications or other pre-bid documents will be made to any Bidder orally. Bidders requiring clarification or interpretation of the Bidding Documents shall make a request to William Long, Chief Assistant Purchasing Agent at the Fulton County Purchasing Department, 130 Peachtree Street, S.W., Suite 1168, Atlanta, Georgia 30303, no later than 5:00 PM October 18, 2005, 2005. Written requests for clarification or interpretation may be mailed, hand delivered, e-mailed or faxed to the Assistant Purchasing Agent at the address below, e-mail address or fax number. Telephone inquiries will not be accepted.



---

William Long, Chief Assistant Purchasing Agent  
Department of Purchasing  
Fulton County Public Safety Building  
130 Peachtree Street, S.W., 1168  
Atlanta, GA 30303  
Fax: (404) 893-1744  
[william.long@co.fulton.ga.us](mailto:william.long@co.fulton.ga.us)

Only communications from firms that are in writing and signed will be recognized by the County as duly authorized expressions on behalf of proposers/bidders. Any and all such interpretations and any supplemental instructions will be in the form of written Addenda to the Specifications which, and if any addenda are issued to this Invitation to Bid.

- D. **Site Examination:** There will be no site visit for this project. However, bidders are encouraged to visit the route of the reuse main per the design drawings on their own.

**Bid:** All Bids must be made on the Bid forms contained herein. The Bid shall be enclosed in a sealed envelope, addressed to Department of Purchasing, Fulton County Public Safety Building, 130 Peachtree Street, S.W., Suite 1168 Atlanta, Georgia 30303 and labeled, Invitation to Bid for-  
**Utility Bill Payment Centers.**

**REQUIRED SUBMITTALS:** The bidder **must complete and execute** the following:

1. Bid Form
2. Bid Schedule
3. Bid Bond
4. Certification of Acceptance of Bid/Proposal Requirements
5. Corporate or Partnership Certificate
6. Non-Collusion Affidavit of Prime Bidder
7. Non-Collusion Affidavit of Subcontractor
8. Contract Compliance Forms, fully executed
  - a. Promise of Non-Discrimination (Exhibit A)
  - b. Employment Report (Exhibit B)
  - c. Schedule of Intended Subcontractor Utilization (Exhibit C)
  - d. Letter of Intent to Perform As a Subcontractor or Provide Materials or Services (Exhibit D)
  - e. Declaration Regarding subcontractor Practices (Exhibit E)
  - f. Joint Venture Disclosure Affidavit (Exhibit F)
  - g. Equal Business Opportunity (EBO) Plan

---

Any bids received after the stated time and date shall not be considered. It shall be the sole responsibility of the bidder to have his/her bid delivered to the Fulton County Department of Purchasing for receipt on or before the stated time and date (section 00020). If a bid is sent by U.S. Mail, the bidder shall be responsible for its timely delivery to the Purchasing Department. Bids delayed by mail will not be considered, shall not be opened, and arrangements shall be made for their return at the bidder's request and expense.

The originally signed bid with three (3) copies shall be submitted in a sealed package, clearly marked on the outside Invitation to Bid for the **Utility Bill Payment Centers**.

Bid shall be publicly opened, with only the names and total bid price of the bidders disclosed at the opening.

- E. **Right to Reject Bids:** The County reserves the right to reject any or all bids and to waive informalities. No bids will be received after the time set for opening bids. Any unauthorized conditions, limitations or provisions attached to the Bid, except as provided herein, will render it informal and may cause its rejection. Unbalanced bids will be subject to rejection. Any bidder may withdraw his/her bid, either personally or by telegraphic or written request, at any time prior to the scheduled closing time for receipt of bids. Telegraphic or written requests for withdrawal must be in the possession of the County prior to the closing time for receipt of bids.
- F. **Applicable Laws:** All applicable laws and regulations of the State of Georgia and ordinances and regulations of Fulton County shall apply. Protestors shall seek resolution of their complaints in the manner provided in the Fulton County Code of Laws §2-324, which is incorporated by reference herein.
- G. **Examination of Contract Documents:** Prospective bidders shall examine the contract documents and before submitting a bid, shall make a written request to the County for an interpretation or correction of any ambiguity, in consistency or error therein which could be discovered by a bidder. At the bid opening each bidder shall be presumed to have read and be familiar with the contract documents.
- H. **Termination:** The County may terminate the contract resulting from this solicitation at any time the vendor fails to carry out the contract provisions, if in the opinion of the County, the performance of the contract is unreasonably delayed, or the vendor is in direct violation of the contract conditions. The County shall provide the vendor with notice of any conditions which violate or endanger the performance of the contract and, if after such notice the contractor fails to remedy such conditions within thirty

---

(30) days, to the satisfaction of the County, the County may exercise their option in writing to terminate the Contract without further notice to the Contractor and order the Contractor to stop work immediately and vacate the premises. Vendor agrees by its bid submission that the County's decision is final and valid.

- I. **Indemnification and Hold Harmless Agreement:** The successful contractor will agree to indemnify, save harmless and defend the County, its agents, servants, and employees from all lawsuits, claims, demands, liabilities, losses and expenses for or on account of any injury or loss in connection with the work performed under this contract: Provided, however the Contractor shall not be liable for any damages resulting for the sole negligent or intentional acts or omission of the County and its employees, agents or representatives.
- J. **Bid Opening: Bids will be opened in public on October 26, 2005 at 11:00 A.M., local time and read aloud. All bidders are requested to be present at the opening.**
- K. **Determination of Successful Bidder:** Fulton County desires to complete this work in a timely manner. The Contract will be awarded to the lowest responsive, responsible bidder(s), if awarded.
  - 1) **Responsibility:** The determination of the bidder's responsibility will be made by the County based on whether the bidder meets the following minimum requirements:
    - a) The County reserves the right to reject any bid if the evidence submitted by, or investigation of, the bidder fails to satisfy the County that he/she is properly qualified to carry out the obligations of the Contract.
    - b) Maintains a permanent place of business individually or in conjunction with the prime contractor.
    - c) Has the appropriate and adequate technical experience. Designated Project Manager must be proficient in all aspects of contracted work.
    - d) Has adequate personnel and equipment to do the work expeditiously.
    - e) Has suitable financial means to meet obligations incidental to the work.
  - 2) **Responsiveness:** The determination of responsiveness will be made by the County based on a consideration of whether the bidder has submitted a complete Bid form without irregularities, excisions, special conditions, or alternative bids for any item unless specifically requested in the Bid form.

- 
- L. **Wage Clause:** Pursuant to 102-391, Each Contractor shall agree that in the performance of the Contract he will comply with all lawful agreements, if any, which the Contractor had made with any association, union, or other entity, with respect to wages, salaries, and working conditions, so as not to cause inconvenience, picketing, or work stoppage.

- M. **Notice of Award of Contract:** As soon as possible, and within sixty (60) days after receipt of bids, the County shall notify the successful Bidder of the Award of Contract.

The award shall be made by the Board of Commissioners of Fulton County to the lowest responsive, responsible bidder(s) as soon as possible after receipt of bids, taking into consideration price and the responsiveness to the requirements set forth in the Invitation for Bid. In such case, no claim shall be made by the selected Contractor(s) for loss of profit if the contract is not awarded or awarded for less work than is indicated and for less than the amount of his bid. The total of the awarded contract shall not exceed the available funds allocated for this project.

Should the County require additional time to award the contract, the time may be extended by mutual agreement between the County and the successful bidder. If an Award of Contract has not been made within sixty (60) days from the bid date or within the extension mutually agreed upon, the Bidder may withdraw the Bid without further liability on the part of either party.

Any award made by the Board of Commissioners as a result of this bid will begin from the date of the notice to proceed. The Bidder agrees hereby to commence work under this Contract, with adequate personnel and equipment, on a date to be specified in a written order of the Program Manager. The contract shall become effective on the Contract Date and shall continue in effect until the end of the term of the contract or until the project has been closed-out by the Program Manager unless earlier terminated pursuant to the termination provisions of the contract.

- N. **Execution of Contract Documents:** Upon notification of Award of Contract, the County shall furnish the Contractor the conformed copies of Contract Documents for execution by the Contractor and Contractor's surety.

Within fifteen (15) days after receipt the Contractor shall return all the documents properly executed by the Contractor and the Contractor's surety. Attached to each document shall be an original power-of-attorney for the person executing the bonds for the surety and certificates of insurance for the required insurance coverage.

---

After receipt of the documents executed by the Contractor and his surety with the power-of-attorney and certificates of insurance, the County shall complete the execution of the documents. Distribution of the completed documents will be made upon completion.

Should the contractor and/or surety fail to execute the documents within the time specified, the County shall have the right to proceed on the Bid Bond accompanying the bid.

If the County fails to execute the documents within the time limit specified, the Contractor shall have the right to withdraw the Contractor's bid without penalty.

Should an extension of any of the time limits stated above be required, this shall be done only by mutual agreement between both parties.

Any agreement or contract resulting from the acceptance of a bid shall be on a County approved document form. The County reserves the right to reject any agreement that does not conform to the Invitation for Bid and any County requirements for agreements and contracts. The County reserves the right to modify the agreement resulting from this bid upon the recommendation of the County Attorney.

- O. **Joint Venture** Any Bidder intending to respond to this solicitation as a joint venture must submit an executed joint venture agreement with its offer. The agreement must designate those persons or entities authorized to execute documents or otherwise bind the joint venture in all transactions with Fulton County, or be accompanied by a document, binding upon the joint venture and its constituent members, making such designation. Offers from joint ventures that do not include these documents will be rejected as being non-responsive.
- P. **Contractors Compliance With All Assurances And/Or Promises Made In Response To Procurement:** Should any Bidder submit a response to the County promising to provide a certain level of service for either the scope of work, MFBE participation, or any other matter, including where such promise or assurance is greater than what is required by the procurement documents, and should this response containing the promise or assurance be accepted by the County and made a part of the Contract Documents, then this degree or level of service promised by the bidder relating to the scope of work, MFBE participation, or other matter shall be considered to be a material part of the Agreement between the bidder and the County, such that the bidder's failure to provide the agreed upon degree or level of service or participation shall be a material breach of the

---

Agreement giving the County just cause to terminate the Agreement for cause, pursuant to the General Conditions of the Agreement.

- Q. **Availability Of Funding:** Any award of work, contract, or service for any portion of the **Utility Bill Payment Centers, Invitation to Bid 05ITB21000-C-BL** will be conditional and subject to Fulton County obtaining financing through the issuance of water and sewer revenue bonds where the proceeds from such bonds are in an amount sufficient to fund the **Utility Bill Payment Centers, Invitation to Bid 05ITB21000-C-BL**. This conditional award will not be in effect until Fulton County has been successful in raising the required funds for payment of the **Utility Bill Payment Centers, Invitation to Bid 05ITB21000-C-BL**. If it proves impossible for Fulton County to raise the required funds, the conditional award will be cancelled by Fulton County without any recourse by the responding entity. The submittal of a bid in response to any phase of the procurement for the **Utility Bill Payment Centers, Invitation to Bid 05ITB21000-C-BL** serves as acceptance of this condition by the entity responding to the procurement. Without waiving any of the conditions contained herein, and solely for informational purposes, please be aware that the Fulton County Board of Commissioners has taken legislative action authorizing the Fulton County Director of Finance to procure the services of the various professionals that will assist in obtaining the bond proceeds, and it is anticipated that the funding will be in place by the second or third quarter of 2005.

---

## **FULTON COUNTY PURCHASING DEPARTMENT**

### **BID GENERAL REQUIREMENTS Invitation to Bid 05ITB21000C-BL UTILITY BILL PAYMENT CENTERS**

The following information pertains to the submission of a Bid to Fulton County, and contains instructions on how Bids must be presented in order to be considered. Listed below are the requirements for all Bidders interested in doing business with Fulton County.

1. The Bid sheets included in this Invitation to Bid ("Bid") must be fully completed and returned with the Bid unless otherwise specified in writing by the Purchasing Department. Type or neatly print the date, company name, and the full legal name and title of the person(s) signing the Bid in the place provided at the bottom of each Bid sheet. Any additional sheets submitted must contain the same signature and Bidder information.
2. Original signature(s) must appear on each page of the Bid document. All signatures must be executed by person(s) having contracting authority for the Bidder.
3. Absolutely no fax Bids or reproduction Bids will be accepted, except that photocopies may be submitted in addition to the original when multiple copies of the Bid are specifically requested in the solicitation.
4. The envelope in which the Bid response is submitted must be sealed and clearly labeled with the Bid number, project title, due date and time, and the name of the company or individual submitting the proposal. Bids must be received by the opening date and time shown on this Bid in order to be considered. The Purchasing Agent has no obligation to consider Bids which are not in properly marked envelopes. Contract Compliance submittals shall be submitted in a separate sealed envelope or package.
5. The original and the required number of copies of the Bid must be returned to:

Fulton County Purchasing Agent  
Fulton County Purchasing Department  
130 Peachtree Street, S.W., Suite 1168  
Atlanta, Georgia 30303

---

Any inquiries, questions, clarifications or suggestions regarding this solicitation should be submitted in writing to the Purchasing Contact Person. Contact with any other County personnel in regard to a current solicitation is strictly prohibited in accordance with Fulton County "No Contact" policy outlined in Section 35.

6. Show information and prices in the format requested. Prices are to be quoted F.O.B. Destination, and must include all costs chargeable to the Contractor executing the Contract, including taxes. Unless otherwise provided in the Contract, Fulton County shall have no liability for any cost not included in the price. The Contractor shall provide Fulton County the benefit through a reduction in price of any decrease in the Contractor's costs by reason of any tax exemption based upon Fulton County's status as a tax-exempt entity.
7. All prices Bid must be audited by the Bidder to ensure correctness before the Bid is submitted. The Bidder is solely responsible for the accuracy of information placed on a Bid sheet, including prices. Clerical or mathematical error is insufficient to void a successful Bid but a Bidder may withdraw a sealed Bid prior to opening without a penalty.
8. All prices must be submitted in the format requested and less all trade discounts. When multiple items are being Bid, Bidder must show both the unit price and the total extended price for each item. When applicable, the Bidder must include an additional lump sum Bid for groups or items. In the event a Bidder is offering an additional discount on groups of items, Bidder must indicate the total lump sum Bid for the particular group of items before any extra discount, the amount of extra discount, and the net total for the particular group. In the event of an extension error, unit pricing shall prevail.
9. By submitting a signed Bid, Bidder agrees to accept an award made as a result of that Bid under the terms and conditions spelled out in the Bid documents. In the event of a conflict between the different Bid documents, the County's cover Contract (if used) shall have precedence, followed in order by the Invitation to Bid, Purchase Order, Bid, Contractor's Warranty Agreement, Maintenance Agreement, and/or other Contractor provided agreements.
10. A Bidder may submit only one (1) Bid response for each specific Bid solicitation unless otherwise authorized in the specifications.
11. All prices submitted by the Bidder to Fulton County must be guaranteed by the authorized person(s) against any price increase for the time period designated in the Bid specifications, and Fulton County



---

must be given the benefit of any price decrease occurring during such designated time period.

12. All items Bid must be new. Used, rebuilt and refurbished items will not be considered unless specifically authorized by Fulton County in the written specifications.
13. All Bidders must specify in the Bid response the earliest actual delivery date for each item unless otherwise specified in writing by Fulton County. The delivery date may be a factor in deciding the Bidder's capability to perform.
14. A successful Bidder's delivery ticket(s) and invoice(s) must list each item separately and must show Fulton County's purchase order number as well as the proper department and address to which delivery was made, as listed on the purchase order or in the Bidder's contract with Fulton County.
15. Unless clearly shown as "no substitute" or words to that effect, any items in this invitation to Bid which have been identified, described or referenced by a brand name or trade name are for reference only. Such identification is intended to be descriptive but not restrictive, and is to indicate the general quality and characteristics of products that may be offered. Each item Bid must be individually identified as to whether it is a specified item or an equivalent item by typing or printing after the item(s): The brand name; model or manufacturer's number, or identification regularly used in the trade. Deviations from the specifications must be clearly and fully listed on the Bid sheet, including photographs or cuts, specifications, and dimensions of the proposed "alternate". Fulton County is the sole judge of "exact equivalent", or "alternate". The factors to be considered are: function, design, materials, construction, workmanship, finishes, operating features, overall quality, local service facilities, warranty terms and service, and other relevant features of item(s) Bid.
16. For all Bids, Fulton County reserves the right to request representative samples. If requested, samples must be delivered at the Bidder's cost within three (3) business days. Samples are submitted at the risk of the Bidder and may be subjected to destructive tests by Fulton County. Samples must be plainly tagged with Fulton County's Bid number, item name, manufacturer, and the name of the Bidder.
17. Item(s) Bid must be complete and ready to operate. No obvious omissions of components or necessary parts shall be made even though the specifications may not detail or mention them. Unit(s) must be furnished with factory installed equipment and must be comparable

---

with the basic form, fit, and functional requirements which are all to be included in the base price as well as any other equipment included as standard by the manufacturer or generally provided to the buying public.

18. All successful Bidders must assume full responsibility for all item(s) damaged prior to F.O.B. Destination delivery and agree to hold harmless Fulton County of all responsibility for prosecuting damage claims.
19. All successful Bidders must assume full responsibility for replacement of all defective or damaged goods within thirty (30) days of notice by Fulton County of such defect or damage.
20. All successful Bidders must assume full responsibility for providing or ensuring warranty service on any and all items including goods, materials, or equipment provided to the County with warranty coverage. If a successful Bidder is not the manufacturer, all manufacturers' warranties must be passed through to Fulton County. The Bidder and not Fulton County is responsible for contacting the manufacturer of the warranty service provided during the warranty period and supervising the completion of the warranty service to the satisfaction of Fulton County.
21. As a successful Bidder providing any equipment which requires fitting and assembly, the Bidder shall be solely responsible for such installation being performed by a manufacturer's authorized or approved servicer or an experienced worker, utilizing workmanship of the highest caliber. The Bidder must verify all dimensions at the site, shall be responsible for their correctness, and shall be responsible for the availability of replacement parts when specified in writing by Fulton County in the specifications, purchase order, or other contract.
22. A successful Bidder is solely responsible for disposing of all wrappings, crating, and other disposable material upon deliver of item(s).
23. All Bidders are required to be authorized distributors or regularly engaged in the sale or distribution of the type of goods, materials, equipment or services for which the Bidder is submitting a Bid response in addition, all Bidders are required to provide Fulton County with three (3) written references documenting the successful completion of Bids or contracts for the types of items including goods, materials, equipment, or services for which the Bidder is submitting a Bid response. In instances where a Bidder has never supplied such goods, material, equipment, or services before, the Bidder must submit with the Bid response a statement and supporting documentation

---

demonstrating such expertise, knowledge, or experience to establish the Bidder as a responsible Bidder, capable of meeting the Bid requirements should an award be made. No exceptions to this provision will be made unless authorized in the Bid specifications.

24. Bidders may be required to furnish evidence that they maintain permanent places of business of a type and nature compatible with their Bid proposal, and are in all respects competent and eligible vendors to fulfill the terms of the specifications. Fulton County may make such investigations as it deems necessary to determine the ability of the Bidder to perform such work, and reserves the right to reject any Bidder if evidence fails to indicate that the Bidder is qualified to carry out the obligation of the Contract and to complete the work satisfactorily.
25. All Bidders must comply with all Fulton County Purchasing laws, policies, and procedures, non-discrimination in contracting and procurement ordinances, and relevant state and federal laws including but not limited to compliance with EEOC hiring guidelines and requirements under the Americans with Disabilities Act. Successful Bidder must obtain all permits, licenses, and inspections as required and furnish all labor, materials, insurance, equipment, tools, supervision, and incidentals necessary to accomplish the work in these specifications.
26. If a successful Bidder is unable or unwilling to enter into a Contract with Fulton County subsequent to being granted an award, or who fails to perform in accordance with the Bid specifications the Bidder will be subject to damages and all other relief allowed by law.
27. Successful Bidders contract directly with Fulton County and are the party or parties obligated to perform. Contracts may not be assigned and any failure to perform the Contract in accordance with the specifications will constitute a breach of Contract and may result in a Bidder being found to be "non-responsive" in the future.
28. In case of default by the successful Bidder, Fulton County may procure the articles for services from another source and hold the successful Bidder responsible for any resulting excess cost.
29. The County may award any Bid in whole or in part to one or more vendors or reject all Bids and/or waive any technicalities if it is in the best interests of the County to do so. In the event that all Bids are not rejected, Bids for items including goods, materials, equipment, and services will be awarded to the lowest "responsible" Bidder(s) as determined by Fulton County. Submitting the lowest Bid, as published

---

at the Bid opening, does not constitute an award or the mutual expectation of an award of a Contract and purchase order. For purposes of this notice and the attached Bid sheets, a purchase order is a Contract to provide items including goods, materials, equipment, and services and is intended to have the full force and effect of a Contract. A breach of the terms and conditions of a purchase order constitutes a breach of Contract.

30. Bids for projects that are solicited pursuant to the Georgia Local Government Public Works Construction Law (O.C.G.A. § 36-91-1 et seq.) may be withdrawn as follows:

Competitive sealed Bids ("Bid") may not be revoked or withdrawn until 60 days after the time set by the governmental entity for opening of Bids. At the end of this time period, the Bid will cease to be valid, unless the Bidder provides written notice to the County prior to the scheduled expiration date that the Bid will be extended for a time period specified by the County.

31. In the evaluation of the Bids, any award will be subject to the Bid being:
- A. Compliant to the specification – meets form, fit, and function requirements stated or implied in the specification.
  - B. Lowest cost to the County over projected useful life.
  - C. Administratively Compliant – Including all required bonds, insurance, established quality of work and general reputation, financial responsibility, relevant experience, and related criteria.
32. All proposals and Bids submitted to Fulton County are subject to the Georgia "Open Records Act", Official Code of Georgia, Annotated (O.C.G.A.) §50-18-70 et seq.
33. All proposals and Bids submitted to Fulton County involving Utility Contracting are subject to the Georgia law governing licensing of Utility Contractors, O.C.G.A. §43-14-8.2(h). The Utility Contractor License number of the person who will perform the utility work shall be written on the face of the Bid envelope.
34. The apparent silence of this specification, and any supplement thereto, as to details, of the omission from it of a detailed description concerning any point, will be regarded as meaning only the best commercial practices are to prevail. Only materials of the highest quality, correct type, size, and design are to be used. All

---

interpretations of this specification will be made upon the basis of this statement, with Fulton County interpretation to prevail.

35. It is the policy of Fulton County that the evaluation and award process for County contracts shall be free from both actual and perceived impropriety, and that contacts between potential vendors and County officials, elected officials and staff regarding pending awards of County contracts shall be prohibited.
  - A. No person, firm, or business entity, however situated or composed, obtaining a copy of or responding to this solicitation, shall initiate or continue any verbal or written communication regarding this solicitation with any County officer, elected official, employee, or designated County representative, between the date of the issuance of this solicitation and the date of the County Manager's recommendation to the Board of Commissioners for award of the subject contract, except as may otherwise be specifically authorized and permitted by the terms and conditions of this solicitation.
  - B. All verbal and written communications initiated by such person, firm, or entity regarding this solicitation, if same are authorized and permitted by the terms and conditions of this solicitation, shall be directed to the Purchasing Agent.
  - C. Any violation of this prohibition of the initiation or continuation of verbal or written communications with County officers, elected officials, employees, or designated County representatives shall result in a written finding by the Purchasing Agent that the submitted Bid or proposal of the person, firm, or entity in violation is "non-responsive", and same shall not be considered for award.
36. Any Bidder intending to respond to this solicitation as a Joint Venture must submit an executed Joint Venture Agreement with this Bid. This agreement must designate those persons or entities authorized to execute documents or otherwise bind the Joint Venture in all transactions with Fulton County, or are accompanied by a document, binding upon the Joint Venture and its constituent members, making such designation. Bids from Joint Ventures that do not include these documents will be rejected as being "non-responsive".
37. Any Bidder intending to respond to this solicitation must complete all of the Procurement Affidavit Forms provided in this solicitation. Bids that

---

do not include these completed documents will be rejected as being "non-responsive".

**END OF SECTION NO. 1**

## SECTION 2

### BID FORM

#### Invitation to Bid #05ITB21000C-BL UTILITY BILL PAYMENT CENTERS

Submitted \_\_\_\_\_, 2005.

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Bid as principal or principals is or are named herein and that no other person than herein mentioned has any interest in this Bid or in the Contract to be entered into; that this Bid is made without connection with any other person, company or parties making a Bid; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder proposes and agrees, if this Bid is accepted, to contract with the Board of Commissioners of Fulton County, Atlanta, Georgia, in accordance with the shown, noted, and reasonably intended requirements of the Contract Documents to the full and entire satisfaction of the Board of Commissioners of Fulton County, Atlanta, Georgia, with a definite understanding that no money will be allowed for extra work except as set forth in the attached General Conditions and Contract Documents for the following prices.

THE BASE BID IS THE AMOUNT UPON WHICH THE BIDDER WILL BE FORMALLY EVALUATED AND WHICH WILL BE USED TO DETERMINE THE LOWEST RESPONSIBLE BIDDER.

The base bid may not be withdrawn or modified for a period of sixty (60) days following the receipt of bids.

**BASE BID AMOUNT** (Do not include any Bid Alternates)

\$ \_\_\_\_\_

**(Dollar Amount in Numbers)**

\_\_\_\_\_  
**(Dollar Amount in Words)**

The Bidder agrees hereby to commence work under this Contract, with adequate personnel and equipment, on a date to be specified in writing.

The Bidder also understands that payment will be made on the basis of actual quantities at the unit price bid and will make no claim for anticipated profits.

**BIDDER:** \_\_\_\_\_

Signed by: \_\_\_\_\_  
[Type or Print Name]

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Business Phone: \_\_\_\_\_

Bidder's Contractor License No: \_\_\_\_\_  
[State/County]

License Expiration Date: \_\_\_\_\_

Enclosed is a Bid Bond in the approved form, in the sum of:

\_\_\_\_\_ Dollars

(\$\_\_\_\_\_) according to the conditions of "Instructions to Bidders" and provisions thereof.



---

### **SECTION 3**

#### **PURCHASING FORMS & INSTRUCTIONS**

This section contains the procurement forms that are required to be executed and submitted with the bid package. This section does not contain all forms required to be included with the bid package submittal.

To be deemed responsive to this RFP, Bidders must provide the information requested and complete in detail all Purchasing Forms. The appropriate individual(s) authorized to commit the Bidder to the Project must sign the Purchasing Forms. Bidders should reproduce each Purchasing Form, as required, and complete the appropriate portions of the forms provided in this section.

- Form A: Non-Collusion Affidavit of Prime Bidder
- Form B: Non-Collusion Affidavit of Sub-Contractors
- Form C: Certificate of Acceptance of Request for Bid Requirements
- Form D: Certification Regarding Debarment
- Form E: Corporate Certification
- Form F: Non-Conflict of Interest Certification

---

**Form A**

**NON-COLLUSION AFFIDAVIT OF BIDDER/OFFEROR**

**STATE OF GEORGIA**

**COUNTY OF FULTON**

I, \_\_\_\_\_ certify that pursuant to Fulton County Code Section 2-320 (11), this bid or proposal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same work, labor or service to be done or the supplies, materials or equipment to be furnished and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences and civil damages awards. I agree to abide by all conditions of this bid or proposal and certify that I am authorized to sign this bid or proposal for the bidder.

Affiant further states that pursuant to O.C.G.A. Section 36-91-21 (d) and (e), \_\_\_\_\_ has not, by itself or with others, directly or indirectly, prevented or attempted to prevent competition in such bidding or proposals by any means whatsoever. Affiant further states that (s)he has not prevented or endeavored to prevent anyone from making a bid or offer on the project by any means whatever, nor has Affiant caused or induced another to withdraw a bid or offer for the work.

Affiant further states that the said offer of \_\_\_\_\_ is bona fide, and that no one has gone to any supplier and attempted to get such person or company to furnish the materials to the bidder only, or if furnished to any other bidder, that the material shall be at a higher price.

\_\_\_\_\_  
(COMPANY NAME)

\_\_\_\_\_  
(PRESIDENT/VICE PRESIDENT)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,  
200\_\_.

\_\_\_\_\_  
(SECRETARY/ASSISTANT SECRETARY)

---

(Affix corporate seal here, if a corporation)

Notary Public: \_\_\_\_\_

County: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

**NOTE:**

**IF THE OFFEROR IS A PARTNERSHIP, ALL OF THE PARTNERS AND ANY OFFICER, AGENT, OR OTHER PERSON WHO MAY HAVE REPRESENTED OR ACTED FOR THEM IN BIDDING FOR OR PROCURING THE CONTRACT SHALL ALSO MAKE THIS OATH.**

**IF THE OFFEROR IS A CORPORATION, ALL OFFICERS, AGENTS, OR OTHER PERSONS WHO MAY HAVE ACTED FOR OR REPRESENTED THE CORPORATION IN BIDDING FOR OR PROCURING THE CONTRACT SHALL MAKE THE OATH.**

---

**Form B**

**NON-COLLUSION AFFIDAVIT OF SUBCONTRACTOR**

**STATE OF GEORGIA**

**COUNTY OF FULTON**

I, \_\_\_\_\_ certify that pursuant to Fulton County Code Section 2-320 (11), this bid or proposal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same work, labor or service to be done or the supplies, materials or equipment to be furnished and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences and civil damages awards. I agree to abide by all conditions of this bid or proposal and certify that I am authorized to sign this bid or proposal for the bidder.

Affiant further states that pursuant to O.C.G.A. Section 36-91-21 (d) and (e), \_\_\_\_\_ has not, by itself or with others, directly or indirectly, prevented or attempted to prevent competition in such bidding or proposals by any means whatsoever. Affiant further states that (s)he has not prevented or endeavored to prevent anyone from making a bid or offer on the project by any means whatever, nor has Affiant caused or induced another to withdraw a bid or offer for the work.

Affiant further states that the said offer of \_\_\_\_\_ is bona fide, and that no one has gone to any supplier and attempted to get such person or company to furnish the materials to the bidder only, or if furnished to any other bidder, that the material shall be at a higher price.

\_\_\_\_\_  
(COMPANY NAME)

\_\_\_\_\_  
(PRESIDENT/VICE PRESIDENT)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,  
200\_\_.

\_\_\_\_\_  
(SECRETARY/ASSISTANT SECRETARY)

---

(Affix corporate seal here, if a corporation)

Notary Public: \_\_\_\_\_

County: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

**NOTE:**

**IF THE OFFEROR IS A PARTNERSHIP, ALL OF THE PARTNERS AND ANY OFFICER, AGENT, OR OTHER PERSON WHO MAY HAVE REPRESENTED OR ACTED FOR THEM IN BIDDING FOR OR PROCURING THE CONTRACT SHALL ALSO MAKE THIS OATH.**

**IF THE OFFEROR IS A CORPORATION, ALL OFFICERS, AGENTS, OR OTHER PERSONS WHO MAY HAVE ACTED FOR OR REPRESENTED THE CORPORATION IN BIDDING FOR OR PROCURING THE CONTRACT SHALL MAKE THE OATH.**

---

**Form C**

**FULTON COUNTY CERTIFICATE OF ACCEPTANCE OF BID/PROPOSAL  
REQUIREMENTS**

This Is To Certify That On This Day Bidder/Proposer Acknowledges That He/She Has Read This Bid Document, Pages \_\_\_\_\_ To \_\_\_\_\_ Inclusive, Including Addendum(s) \_\_\_\_ To \_\_\_\_, And/Or Appendices \_\_\_\_ To \_\_\_\_, In Its Entirety, And Agrees That No Pages Or Parts Of The Document Have Been Omitted, That He/She Understands, Accepts And Agrees To Fully Comply With The Requirements Therein, And That The Undersigned Is Authorized By The Bidding/Proposing Company To Submit The Bid/Proposal Herein And To Legally Obligate The Bidder/Proposer Thereto.

Company: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(Corporate Seal)

---

## Form D

### CERTIFICATION REGARDING DEBARMENT

- (1) The Offeror certifies that neither it or its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from doing business with any government agency. Any such exclusion may cause prohibition of your firm from participating in any procurement by the Fulton County Government.
- (1) If the Offeror is unable to certify to any of the statements in this certification, such Offeror or subcontractor shall attach an explanation to this bid or proposal.

### INSTRUCTIONS FOR CERTIFICATION

By signing and submitting this certification, the Offeror is providing the certification set out below:

- (1) The certification in this clause is a material representation of fact upon which reliance will be placed. If it is later determined that the prospective vendor knowingly rendered a false certification, the Purchasing Agent may pursue all available remedies, including suspension and/or debarment, for withdrawal of award or termination of a contract.
- (2) The prospective Offeror shall provide immediate written notice to the Purchasing Agent if at anytime the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (3) Offeror shall be under a continuing duty to immediately inform the Purchasing Agent in writing of any changes, if as a result of such changes, the Offeror certification regarding debarment is affected.

### DEBARMENT ORDINANCE

The following Section 2-322 of Fulton County Code of Laws establishes the procedure for the debarment of contractors.

#### ***(a) Authority to suspend.***

After reasonable notice to the entity involved and reasonable opportunity for that entity to be heard, the Purchasing Agent, after consultation with user department, the County Manager and the County Attorney shall have the authority to suspend

---

an entity for cause from consideration for award of county contracts. As used in this section, the term entity means any business entity, individual, firm, contractor, subcontractor or business corporation, partnership, limited liability corporation, firm, contractor, subcontractor or business structured; provided, further, that any such entity shall also be subject to suspension under this section if any of its constituents, members, subcontractors at any tier of such entity's and the entity, or any constituent or member, knew or should have known of the commission of the act. The suspension shall be for a period not to exceed three (3) years unless cause is based on a felony conviction for an offense related or associated with fraudulent contracting or misappropriation of funds wherein the suspension shall not exceed seven (7) years.

**(b) *Causes for Suspension.* The causes for suspension include:**

- 1) Conviction for commission of a criminal offense as an incident to obtain or attempting to obtain a public or private contract or subcontract, or in performance of such contract or subcontract;
- 2) Conviction of state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a county contractor.
- 3) Conviction of state or federal anti-trust statutes arising out of the solicitation and submission of bids and proposals;
- 4) Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify suspension action:
  - a. Failure to perform in accordance with the specifications within a time limit provided in a county contract;
  - b. A recent record of failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension;
  - c. Material representation of the composition of the ownership or workforce or business entity certified to the county as a minority business enterprise; or
  - d. Falsification of any documents.



---

5) For violation of the ethical standards set forth in Fulton County Code Chapter 9, Code of Ethics.

6) Knowing misrepresentation to the county, of the use which a majority owned contractor intends to make a minority business enterprise (a business entity at least 51 percent of which is owned and controlled by minority persons, as defined in Fulton County Code Chapter 6, Article B, Minority

Business Enterprise Affirmative Action Program and certified as such by the County) as a subcontractor or a joint venture partner, in performing work under contract with the County.

Failure to fully and truthfully provide the information required, may result in the disqualification of your bid/proposal from consideration or termination of the Contract, once awarded. This document must be completed and included as a part of the bid/proposal package along with other required documents.

Under penalty of perjury, I declare that I have examined this certification and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

On this \_\_\_\_\_ day of  
\_\_\_\_\_, 2005

\_\_\_\_\_  
(Legal Name of Offeror) (Date)

\_\_\_\_\_  
(Signature of Authorized Representative) (Date)

\_\_\_\_\_  
(Title)

---

**Form E**

**CORPORATE CERTIFICATE**

Corporations

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation named as Contractor in the foregoing Bid; that \_\_\_\_\_, who signed said Bid on behalf of the Contractor was then \_\_\_\_\_ of said Corporation; that said Bid was duly signed for and on behalf of said Corporation by authority of its Board of Directors, and is within the scope of its corporate powers; that said Corporation is organized under the laws of the State of \_\_\_\_\_.

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

\_\_\_\_\_  
(SEAL) must be affixed

---

Partnership or other entities:

I, \_\_\_\_\_, certify that I am authorized to sign to commit \_\_\_\_\_ named as Contractor in the foregoing Bid. That said company is formed under the laws of the State of \_\_\_\_\_.

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

\_\_\_\_\_  
It is necessary to attach a letter on company letterhead and dated on or after the date of this certificate that the individual signing to commit the partnership or other entity not a corporation to the stipulations of this bid is authorized to do so. The letter should be signed by an individual working for the company who has knowledge of this fact.

---

**Form F**

**NON CONFLICT OF INTEREST CERTIFICATION**

I, \_\_\_\_\_, as the legal representative of \_\_\_\_\_, do certify that we will not perform any type of professional services for property owners adjacent or contiguous to any project assigned by Fulton County, during the active life of such project. Further, I additionally certify that if we already have an agreement(s) with property owner(s) adjacent or contiguous to a project assigned by Fulton County, we will either reject the County assignment, or cancel the property owner already in effect if so directed by Fulton County Board of Commissioners. In no case will our firm utilize our knowledge of the ongoing Fulton County project for professional gain during the active life of such Project.

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Date:

\_\_\_\_\_

Witness: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

---

**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation named as principal in the within bond; that \_\_\_\_\_  
\_\_\_\_\_,'

Who signed the said bond of said corporation; that I know this signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed and attested for in behalf of said Corporation by authority of its governing body.

\_\_\_\_\_  
SECRETARY

SEAL)

(CORPORATE

\_\_\_\_\_  
SURETY

\_\_\_\_\_  
(SEAL)

BY \_\_\_\_\_

---

## SECTION 5

### CONTRACT COMPLIANCE REQUIREMENTS

#### NON-DISCRIMINATION IN CONTRACTING AND PROCUREMENT

**Policy Statement:** It is the policy of Fulton County Government that discrimination against businesses by reason of the race, color, gender or national origin of the ownership of any such business is prohibited. Furthermore, it is the policy of the Board of Commissioners ("Board") that Fulton County and all vendors and contractors doing business with Fulton County shall provide to all businesses the opportunity to participate in contracting and procurement paid, in whole or in part, with monetary appropriations of the Board. Similarly, it is the policy of the Board that the contracting and procurement practices of Fulton County should not implicate Fulton County as either an active or passive participant in the discriminatory practices engaged in by private contractors seeking to obtain contracts with Fulton County.

**Equal Business Opportunity Plan (EBO Plan):** In addition to the proposal submission requirements, each vendor must submit an Equal Business Opportunity Plan (EBO Plan) with their bid/proposal. The EBO Plan is designed to enhance the utilization of a particular racial, gender or ethnic group by a bidder/proposer, contractor, or vendor or by Fulton County. The respondent must outline a plan of action to encourage and achieve diversity and equality in the available procurement and contracting opportunities with *this solicitation*.

The EBO Plan must identify and include:

1. Potential opportunities within the scope of work of *this solicitation* that will allow for participation of racial, gender or ethnic groups.
2. Efforts that will be made by the bidder/proposer to encourage and solicit minority and female business utilization in this solicitation.

Fulton County encourages joint ventures, teaming, partnering and mentor-protégé relationships with minority and female businesses in an effort to achieve contracting and procurement diversity.

**Prompt Payment:** The prime contractor must certify in writing and must document on the Exhibit G Form (Prime Contractor/Subcontractor Utilization Report) that all subcontractors, sub-consultants and suppliers have been promptly paid for work and materials, (less any retainage by the prime contractor prior to receipt of any further progress payments). In the event the prime contractor is unable to pay subcontractors, sub-consultants or suppliers until it has received a progress payment from Fulton County, the prime contractor shall pay all subcontractors, sub-consultants or suppliers funds due from said progress payments within forty-eight (48) hours of receipt of payment from Fulton County. In no event shall a subcontractor, sub-consultant or supplier be paid later than fifteen (15) days as provided for by state law.

---

## REQUIRED FORMS AND EBO PLAN:

In order to be compliant with the intent and provisions of the Fulton County Non-Discrimination in Purchasing and Contracting Ordinance (99-0960), bidders/proposers **must** submit the following completed documents. Failure to provide this information **shall** result in the bid/proposal being deemed non-responsive:

- **Exhibit A** - Promise of Non-Discrimination
- **Exhibit B** - Employment Report
- **Exhibit C** - Schedule of Intended Subcontractor Utilization
- **Exhibit D** - Letter of Intent to Perform As a Subcontractor or Provide Materials or Services
- **Exhibit E** - Declaration Regarding Subcontractor Practices
- **Exhibit F** - Joint Venture Disclosure Affidavit
- **Equal Business Opportunity Plan (EBO Plan)** – This document is not a form. It is a statement created by the bidder/proposer on its company letter head addressing the EBO Plan requirements.

All Contract Compliance documents (Exhibits A – F and EBO Plan) are to be placed in a **separate sealed envelope** clearly marked “Contract Compliance”. The EBO Plan must be submitted on company letterhead. These documents are considered part of and should be submitted with the Technical Proposal.

The following document **must** be completed as instructed if awarded the bid:

- **Exhibit G** - Prime Contractor’s Subcontractor Utilization Report

---

## EXHIBIT A – PROMISE OF NON-DISCRIMINATION

"Know all persons by these presents, that I/WE ( \_\_\_\_\_  
), \_\_\_\_\_ Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Firm Name

Hereinafter "Company"), in consideration of the privilege to bid on or obtain contracts funded, in whole or in part, by Fulton County, hereby consent, covenant and agree as follows:

- 1) No person shall be excluded from participation in, denied the benefit of, or otherwise discriminated against on the basis of race, color, national origin or gender in connection with any bid submitted to Fulton County for the performance of any resulting there from,
- 2) That it is and shall be the policy of this Company to provide equal opportunity to all businesses seeking to contract or otherwise interested in contracting with this Company without regard to the race, color, gender or national origin of the ownership of this business,
- 3) That the promises of non-discrimination as made and set forth herein shall be continuing in nature and shall remain in full force and effect without interruption,
- 4) That the promise of non-discrimination as made and set forth herein shall be made a part of, and incorporated by reference into, any contract or portion thereof which this Company may hereafter obtain,
- 5) That the failure of this Company to satisfactorily discharge any of the promises of non-discrimination as made and set forth herein shall constitute a material breach of contract entitling the Board to declare the contract in default and to exercise any and all applicable rights and remedies, including but not limited to cancellation of the contract, termination of the contract, suspension and debarment from future contracting opportunities, and withholding and/or forfeiture of compensation due and owing on a contract; and
- 6) That the bidder shall provide such information as may be required by the Director of Contract Compliance pursuant to Section 4.4 of the Fulton County Non-Discrimination in Purchasing and Contracting Ordinance.

SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

---

## EXHIBIT B – EMPLOYMENT REPORT

The demographic employment make-up for the bidder **must** be identified and submitted with this bid/proposal. In addition, if subcontractors will be utilized by the bidder/proposer to complete this project, then the demographic employment make-up of the subcontractor(s) must be identified and submitted with this bid.

### EMPLOYEES

CATEGORY	NATIVE INDIAN		AFRICAN AMERICAN		ASIAN AMERICAN		HISPANIC AMERICAN		CACUSIAN AMERICAN		OTHER	
Male/Female	M	F	M	F	M	F	M	F	M	F	M	F
Mgmt/Official												
Professional (Arch., P.E., etc.)												
Supervisors												
Office/ Clerical												
Craftsmen												
Laborers												
Others (Specify)												
TOTALS												

FIRM'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

This completed form is for (Check one) \_\_\_\_\_ Bidder/Proposer \_\_\_ Subcontractor

Submitted by: \_\_\_\_\_ Date Completed: \_\_\_\_\_



---

## EXHIBIT C – SCHEDULE OF INTENDED SUBCONTRACTOR UTILIZATION

If the bidder/proposer intends to subcontract any portion of this scope of work/service(s), this form **must be** completed and **submitted with the bid/proposal**. All prime bidders/proposers **must** include Letter(s) of Intent (Exhibit D) in the bid document for all subcontractors who will be utilized under the scope of work/services.

**Prime Bidder/Proposer:** \_\_\_\_\_

**ITB/RFP NUMBER:** \_\_\_\_\_

**Project Name or Description of Work/Service(s):** \_\_\_\_\_

- 
1. My firm, as Prime Bidder/Proposer on this scope of work/service(s) is \_\_\_\_\_ is not a minority or female owned and controlled business. (Please indicate below the portion of work, including, percentage of bid amount that your firm will carry out directly):

\_\_\_\_\_  
\_\_\_\_\_

If the Prime Bidder/Proposer is a Joint Venture, please complete Exhibit F: Joint Venture Disclosure Affidavit and attach a copy of the executed Joint Venture Agreement.

2. Sub-Contractors (Including suppliers) to be utilized in the performance of this scope of work/service(s), if awarded, are:

SUBCONTRACTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ETHNIC GROUP\*: \_\_\_\_\_ COUNTY CERTIFIED\*\* \_\_\_\_\_

WORK TO BE PERFORMED: \_\_\_\_\_

---

DOLLAR VALUE OF WORK: \$ \_\_\_\_\_ PERCENTAGE VALUE \_\_\_\_\_ %

**\*Ethnic Groups: African American (AABE); Asian American (ABE); Hispanic American (HBE); Native American (NABE); White Female American (WFBE); \*\*If yes, attach copy of recent certification letter.**

---

## EXHIBIT C – SCHEDULE OF INTENDED SUBCONTRACTOR UTILIZATION

SUBCONTRACTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ETHNIC GROUP\*: \_\_\_\_\_ COUNTY CERTIFIED\*\* \_\_\_\_\_

WORK TO BE PERFORMED: \_\_\_\_\_

DOLLAR VALUE OF WORK: \$ \_\_\_\_\_ PERCENTAGE VALUE: \_\_\_\_\_  
%

---

SUBCONTRACTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ETHNIC GROUP\*: \_\_\_\_\_ COUNTY CERTIFIED\*\* \_\_\_\_\_

WORK TO BE PERFORMED: \_\_\_\_\_

DOLLAR VALUE OF WORK: \$ \_\_\_\_\_ PERCENTAGE VALUE: \_\_\_\_\_  
%

---

SUBCONTRACTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ETHNIC GROUP\*: \_\_\_\_\_ COUNTY CERTIFIED\*\* \_\_\_\_\_

WORK TO BE PERFORMED: \_\_\_\_\_

DOLLAR VALUE OF WORK: \$ \_\_\_\_\_ PERCENTAGE VALUE: \_\_\_\_\_  
%

---

SUBCONTRACTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ETHNIC GROUP\*: \_\_\_\_\_ COUNTY CERTIFIED\*\* \_\_\_\_\_

WORK TO BE PERFORMED: \_\_\_\_\_

---

DOLLAR VALUE OF WORK: \$\_\_\_\_\_ PERCENTAGE  
%

VALUE:

**EXHIBIT C – SCHEDULE OF INTENDED SUBCONTRACTOR UTILIZATION**

<b>Total Dollar Value of Subcontractor Agreements: (\$)</b>
---

<b>Total Percentage Value: (%)</b>
------------------------------------

**CERTIFICATION:** The undersigned certifies that he/she has read, understands and agrees to be bound by the Bid provisions, including the accompanying Exhibits and other terms and conditions regarding sub-contractor utilization. The undersigned further certifies that he/she is legally authorized by the Bidder to make the statement and representation in this Exhibit and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned understands and agrees that if any of the statements and representations are made by the Bidder knowing them to be false, or if there is a failure of the intentions, objectives and commitments set forth herein without prior approval of the County, then in any such event the Contractor's acts or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the County to terminate the Contract for default. The right to so terminate shall be in addition to, and in lieu of, any other rights and remedies the County may have for other defaults under the contract.

Signature/Title:\_\_\_\_\_

Firm or Corporate Name:\_\_\_\_\_

Address:\_\_\_\_\_

\_\_\_\_\_

Telephone: (     )\_\_\_\_\_

Fax Number: (     )\_\_\_\_\_

Email Address:\_\_\_\_\_

**LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR  
OR  
PROVIDE MATERIALS OR SERVICES**

To: \_\_\_\_\_  
(Name of Prime Contractor Firm)

**ITB/RFP Number:** \_\_\_\_\_

The undersigned is prepared to perform the following described work or provide materials or services in connection with the above project (specify in detail particular work items, materials, or services to be performed or provided):

[illegible]

**Date** \_\_\_\_\_ **Date** \_\_\_\_\_

---

## EXHIBIT E – DECLARATION REGARDING SUBCONTRACTING PRACTICES

If the bidder/proposer **does not intend to subcontract** any portion of the scope of work services(s), this form **must be** completed and submitted with the bid.

\_\_\_\_\_ Hereby declares that it is  
my/our intent to  
(Bidder)

Perform 100% of the work required for \_\_\_\_\_  
(IFB/RFP Number)

\_\_\_\_\_  
(Description of Work)

In making this declaration, the bidder/proposer states the following:

1. That the bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform **all elements** of the work on this project with his/her own current work forces;
2. If it should become necessary to subcontract some portion of the work at a later date, the bidder will comply with all requirements of the County's Non-Discrimination Ordinance in providing equal opportunities to all firms to subcontract the work. The determination to subcontract some portion of the work at a later date shall be made in good faith and the County reserves the right to require additional information to substantiate a bidder's decision to subcontract work following the award of the contract. Nothing contained in this provision shall be employed to circumvent the spirit and intent of the County's Non-Discrimination Ordinances;
3. The bidder will provide, upon request, information sufficient for the County to verify Item Number one.

### AUTHORIZED COMPANY REPRESENTATIVE

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

---

## EXHIBIT F – JOINT VENTURE DISCLOSURE AFFIDAVIT

IFB No. \_\_\_\_\_

Project Name \_\_\_\_\_

This form must be completed and submitted with the bid if a Joint Venture approach is to be undertaken.

The firms listed below do hereby declare that they have entered into a joint venture agreement pursuant to the above mentioned project. The information requested below is to clearly identify and explain the extent of participation of each firm in the proposed joint venture. All items must be properly addressed before the business entity can be evaluated.

1. Firms:

1) Name of Business: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

County: \_\_\_\_\_

Nature of Business: \_\_\_\_\_

2) Name of Business: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

County: \_\_\_\_\_

Nature of Business: \_\_\_\_\_

3) Name of Business: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

County: \_\_\_\_\_

Nature of Business: \_\_\_\_\_

NAME OF JOINT VENTURE (If applicable): \_\_\_\_\_

OFFICE ADDRESS: \_\_\_\_\_

PRINCIPAL

OFFICE:

\_\_\_\_\_

OFFICE PHONE: \_\_\_\_\_

---

## EXHIBIT F – JOINT VENTURE DISCLOSURE AFFIDAVIT

Note: Attach additional sheets as required

1. Describe the capital contributions by each joint venturer and accounting thereof. Indicate the percentage make-up for each joint venture partner.
2. Describe the financial controls of the joint venture, e.g., will a separate cost center be established? Which venturer will be responsible for keeping the books? How will the expense therefore be reimbursed? What is the authority of each joint venture to commit or obligate the order?
3. Describe any Ownership, options for Ownership, or loans between the joint ventures. Identify terms thereof.
4. Describe the estimate contract cash flow for each joint venturer.
5. To what extent and by whom will the on-site work be supervised?
6. To what extent and by whom will the administrative office be supervised?
7. Which joint venturer will be responsible for material purchases including the estimated cost thereof? How will the purchase be financed?
8. Which joint venturer will provide equipment? What is the estimated cost thereof? How will the equipment be financed?
9. Describe the experience and business qualifications of each joint venturer.
10. Submit a copy of all joint venture agreements and evidence of authority to do business in the State of Georgia as well as locally, to include all necessary business licenses.
11. Percent of ownership by each joint venture in terms of profit and loss sharing:\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. The authority of each joint venturer to commit or obligate the other:\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 
13. Number of personnel to be involved in project, their crafts and positions and whether they are employees of the small business enterprise, the majority firm or the joint venture: \_\_\_\_\_

14. Identification of control and participation in venture; list those individuals who are responsible for day-to-day management and policy decision-maker, including, but not limited to, those with prime responsibility for areas designated below; (use additional sheets if necessary)

<u>Name</u> <u>Operation</u>	<u>Race</u>	<u>Sex</u>	<u>Financial</u> <u>Decisions</u>	<u>Supervision</u> <u>Field</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

In connection with any work that these firms, as a joint venture, might be authorized to perform in connection with above captioned contract, we each do hereby authorize representatives of the Fulton County Department of Contract Compliance, Departments of Purchasing and Finance, under the direction of the County Manger's Office, to examine, from time to time, the books, records and files to the extent that such relate to this County project.

**WE DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT WE ARE AUTHORIZED, ON BEHALF OF THE ABOVE FIRMS, TO MAKE THIS AFFIDAVIT AND GRANT THE ABOVE PRIVILEGE.**

FOR: \_\_\_\_\_  
(Company)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Affiant)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Company)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Affiant)

\_\_\_\_\_  
(Printed Name)



---

State of \_\_\_\_\_:

County of \_\_\_\_\_:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me, appeared \_\_\_\_\_, the undersigned known to me to be the person described in the foregoing Affidavit and acknowledge that he (she) executed the same in the capacity therein stated and for the purpose therein contained.

EXHIBIT G – PRIME CONTRACTOR/SUBCONTRACTOR UTILIZATION REPORT

This report is required to be submitted by the tenth day of each month, with a copy of your payment invoice (schedule of values/payment application) to Contract Compliance. Failure to comply may result in the County commencing proceedings to impose sanctions on the successful bidder, in addition to purchasing any other available legal remedy. Sanctions may include the suspending of any payment or part thereof, termination or cancellation of the contract, and the denial to participate in any future contracts awarded by Fulton County.

REPORTING PERIOD		PROJECT NAME:	
FROM:		PROJECT NUMBER:	
TO:		PROJECT LOCATION:	

PRIME CONTRACTOR		Contract Award Date	Contract Award Amount	Change Order Amount	Contract Period	% Complete to Date
Name:						
Address:						
Telephone #:						

AMOUNT OF REQUISITION THIS PERIOD:\$ \_\_\_\_\_

TOTAL AMOUNT REQUISITION TO DATE:\$ \_\_\_\_\_

SUBCONTRACTOR UTILIZATION (add additional rows as necessary)

Name of Sub-contractor	Description of Work	Contract Amount	Amount Paid To Date	Amount Requisition This Period	Contract Period Starting Date	Ending Date
TOTALS						

Executed

By: \_\_\_\_\_

(Signature)

(Printed Name)

## SECTION 6

### INSURANCE INFORMATION/REQUIREMENTS

#### INSURANCE REQUIREMENTS

**INSURANCE REQUIREMENTS:** Insurance must be written by a licensed agent in a company licensed to write insurance in the State of Georgia and acceptable to Fulton County. Insurance coverage must be current from time of award through the period of final acceptance from Fulton County. The following requirements shall apply.

- A. Policies and/or certificates certifying policies are to contain an agreement that the policies will not be changed and/or canceled without a ten (10) day prior notice to Fulton County, as evidenced by return receipts of registered or certified letters.
- B. Each respondent shall submit with the quote proof of insurance indicated below. The insurance shall be for the contract period.
- C. Respondent must maintain, at their expense, insurance in at least the following amounts and types.
- D. The Contractor shall insure that the Request for Bid/Proposal number and Project Description appears on the Certificate of Insurance.
- E. The Certificate of Insurance shall identify the Certificate Holder as:

Fulton County Government – Purchasing Department  
130 Peachtree Street, S.W.  
Suite 1168  
Atlanta, Georgia 30303-3459

1. **WORKERS COMPENSATION – STATUTORY (In compliance with the Georgia Workers Compensation Act)**

EMPLOYER’S LIABILITY BY ACCIDENT - EACH ACCIDENT -  
\$500,000.

INSURANCE	BY DISEASE	- POLICY LIMIT	-	\$500,000.
(Aggregate)	BY DISEASE	- EACH EMPLOYEE	-	\$500,000.

2. **COMMERCIAL GENERAL LIABILITY INSURANCE (Including contractual Liability Insurance)**

Bodily Injury and Property Damage Liability Each Occurrence - \$1,000,000.

(Other than Products/Completed Operations) General Aggregate		-	
\$2,000.000.			
Products\Completed Operation	Aggregate Limit	-	\$1,000,000.
Personal and Advertising Injury	Limits	-	\$1,000.000.
Fire Damage	Limits	-	\$ 100,000.

3. **BUSINESS AUTOMOBILE LIABILITY INSURANCE**

<b>Combined Single Limits</b>	Each Occurrence	-
\$1,000,000		
(Including operation of non-owned, owned, and hired automobiles).		

4. **ELECTRONIC DATA PROCESSING LIABILITY**

(Required if computer contractor)	Limits	-
\$1,000,000		

5. **UMBRELLA LIABILITY**

6. (In excess of above noted coverage's)	Each Occurrence	-
\$3,000,000		

7. <b>PROFESSIONAL LIABILITY</b>	Each Occurrence	-
\$5,000,000		

(Required if respondent providing quotation for professional services).

8. **FIDELITY BOND**

(Employee Dishonesty)	Each Occurrence	-
\$ 100,000		

**Insurance in no way Limits the Liability of the Respondent.**

**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

The successful contractor will agree to indemnify, save harmless and defend the County, its agents, servants, and employees from all lawsuits, claims, demands, liabilities, losses and expenses for or on account of any injury or loss in connection with the work performed under this contractor: Provided, however the contractor shall not be liable for any damages resulting from the sole negligent or intentional acts or omission of the County and its employees, agents or representatives.

THE RESPONDENT ACKNOWLEDGES HAVING READ, UNDERSTANDING, AND AGREES TO COMPLY WITH THE ABOVE STATEMENTS, AND IS

AUTHORIZED TO SIGN CONTRACTS ON BEHALF OF THE RESPONDING  
COMPANY.

COMPANY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

---

**SECTION 7**  
**SAMPLE CONTRACT**

**PROFESSIONAL SERVICES AGREEMENT WITH**  
**L3 COMMUNICATIONS (RFP # 05RFP)**

Article 1.	<b><u>CONTRACT DOCUMENTS</u></b>
Article 2.	<b><u>SEVERABILITY</u></b>
Article 3.	<b><u>DESCRIPTION OF PROJECT</u></b>
Article 4.	<b><u>SCOPE OF SERVICES</u></b>
Article 5.	<b><u>DELIVERABLES</u></b>
Article 6.	<b><u>SERVICES PROVIDED BY COUNTY</u></b>
Article 7.	<b><u>MODIFICATIONS/CHANGE ORDERS</u></b>
Article 8.	<b><u>SCHEDULE OF WORK</u></b>
Article 9.	<b><u>CONTRACT TERM</u></b>
Article 10.	<b><u>COMPENSATION AND PAYMENT FOR CONSULTANT SERVICES</u></b>
Article 11.	<b><u>PERSONNEL AND EQUIPMENT</u></b>
Article 12.	<b><u>SUSPENSION OF WORK</u></b>
Article 13.	<b><u>DISPUTES</u></b>
Article 14.	<b><u>TERMINATION OF AGREEMENT FOR CAUSE</u></b>
Article 15.	<b><u>TERMINATION FOR CONVENIENCE OF COUNTY</u></b>
Article 16.	<b><u>WAIVER OF BREACH</u></b>
Article 17.	<b><u>INDEPENDENT CONTRACTOR</u></b>
Article 18.	<b><u>RESPONSIBILITY OF CONSULTANT</u></b>
Article 19.	<b><u>COOPERATION WITH OTHER CONSULTANTS</u></b>
Article 20.	<b><u>ACCURACY OF WORK</u></b>
Article 21.	<b><u>REVIEW OF WORK</u></b>
Article 22.	<b><u>INDEMNIFICATION</u></b>
Article 23.	<b><u>CONFIDENTIALITY</u></b>
Article 24.	<b><u>OWNERSHIP OF INTELLECTUAL PROPERTY AND INFORMATION:</u></b>
Article 25.	<b><u>COVENANT AGAINST CONTINGENT FEES</u></b>
Article 26.	<b><u>INSURANCE</u></b>
Article 27.	<b><u>PROHIBITED INTEREST</u></b>
Article 28.	<b><u>SUBCONTRACTING</u></b>
Article 29.	<b><u>ASSIGNABILITY</u></b>
Article 30.	<b><u>ANTI-KICKBACK CLAUSE</u></b>
Article 31.	<b><u>AUDITS AND INSPECTORS</u></b>
Article 32.	<b><u>ACCOUNTING SYSTEM</u></b>
Article 33.	<b><u>VERBAL AGREEMENT</u></b>
Article 34.	<b><u>NOTICES</u></b>
Article 35.	<b><u>JURISDICTION</u></b>
Article 36.	<b><u>EQUAL EMPLOYMENT OPPORTUNITY</u></b>
Article 37.	<b><u>FORCE MAJEURE</u></b>

---

Article 38. **OPEN RECORDS ACT**  
Article 39. **CONSULTANT'S COMPLIANCE WITH ALL ASSURANCES OR**  
**PROMISES MADE IN RESPONSE TO PROCUREMENT:**  
Exhibits

**SAMPLE PROFESSIONAL AGREEMENT**

This Agreement, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2005 by and between **FULTON COUNTY, GEORGIA** a political subdivision of the State of Georgia, hereinafter referred to as "COUNTY", and \_\_\_\_\_, to provide professional driver training services in Georgia, hereinafter referred to as "CONSULTANT":

**WITNESSETH**

WHEREAS, COUNTY through its Finance Department, Risk Management Division (hereinafter referred to as the "DEPARTMENT") desires to retain a qualified and experienced consultant to perform certain services regarding Driver Training Program for Fulton County employees/drivers (hereinafter, referred to as the "Project").

WHEREAS, CONSULTANT has represented to COUNTY that it is experienced and has qualified and local staff available to commit to the Project and COUNTY has relied upon such representations.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, COUNTY and CONSULTANT agree as follows:

ARTICLE 1. **CONTRACT DOCUMENTS:** COUNTY hereby engages CONSULTANT, and CONSULTANT hereby agrees to perform the services hereinafter set forth. This Agreement, together with the COUNTY'S request for proposal, acknowledgements, the Agreement, general conditions [**where applicable**], special conditions [**where applicable**], specifications, addenda, exhibits, drawings [**where applicable**], acceptable portions of CONSULTANT'S submitted proposal, and change orders, shall all form essential parts of this Agreement. The foregoing documents constitute the entire Agreement of the parties pertaining to the Project hereof and is intended as a complete and exclusive statement of promises, representations, discussions and agreements oral or otherwise that have been made in connection therewith. No modifications or amendment to this Agreement shall be binding upon the parties unless the same is in writing, conform to Fulton County Policy and Procedure 800-6 governing change orders, is signed by the COUNTY'S and the CONSULTANT'S duly authorized representatives, and entered upon the meeting minutes of the Fulton County Board of Commissioners.

If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: 1) the Agreement, 2) the RFP, 3) any Addenda, 4) change orders, 5) the exhibits, and 6) portions of CONSULTANT'S proposal that was accepted by the county and made a part of the Contract Documents.

---

ARTICLE 2. **SEVERABILITY:** If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

ARTICLE 3. **DESCRIPTION OF PROJECT:** COUNTY and CONSULTANT agree the PROJECT is as described in **Exhibit “A”, entitled, “Scope of Services,” included on unnumbered page 6 of the County’s RFP along with appropriate and responsive aspects of CONSULTANT’S Proposal.”** All exhibits referenced in this Agreement are incorporated by reference and constitute an integral part of this Agreement as if they were contained herein.

ARTICLE 4. **SCOPE OF SERVICES:** Unless modified in writing by both parties in the manner specified in the Agreement, duties of CONSULTANT shall not be construed to exceed those services specifically set forth herein. CONSULTANT agrees to provide all services, products, and data and to perform all tasks described in Exhibit “A” entitled, “Scope of Services,” Article 3 above.

ARTICLE 5. **DELIVERABLES:** CONSULTANT shall deliver to COUNTY all reports, specifications and drawings prepared under the terms of this AGREEMENT that are specified in the Agreement. CONSULTANT shall provide to COUNTY all deliverables specified in the Agreement. Deliverables shall be furnished to COUNTY by CONSULTANT in a media of form that is acceptable and usable by COUNTY at no additional cost at the end of the Project.

ARTICLE 6. **SERVICES PROVIDED BY COUNTY:** CONSULTANT shall gather from COUNTY all available non-privileged data and information pertinent to the performance of the services for the Project. Certain services as described in Exhibit “A,” if required, will be performed and furnished by COUNTY in a timely manner so as not to unduly delay CONSULTANT in the performance of said obligations. COUNTY shall have the final decision as to what data and information is pertinent.

COUNTY will appoint in writing a COUNTY Authorized Representative with respect to work to be performed under this Agreement until COUNTY gives written notice of the appointment of a successor. The COUNTY’S Authorized Representative shall have complete authority to transmit instructions, receive information, and define COUNTY’S policies, consistent with COUNTY rules and regulations. CONSULTANT may rely upon written consents and approvals signed by COUNTY’S Authorized



---

Representative that are consistent with COUNTY rules and regulations.

**ARTICLE 7. MODIFICATIONS/CHANGE ORDERS:** If during the course of performing the Project, COUNTY and CONSULTANT agree that it is necessary to make changes in the Project, such changes will be incorporated by written Change Order and/or supplemental agreements to this AGREEMENT. Any such Change Order and/or supplemental shall not become effective or binding unless approved by the Board of Commissioners and entered on the minutes. Such modifications shall conform to the requirements of Fulton County Policy 800-6, which is incorporated by reference herein.

**[ARTICLE 8 IS OPTIONAL; ONLY USE WHERE THE WORK IS BROKEN UP INTO TASKS WHERE EACH TASK REQUIRE A NOTICE TO PROCEED FROM THE COUNTY]**

**ARTICLE 8. SCHEDULE OF WORK:** CONSULTANT shall not proceed to furnish such services and COUNTY shall not become obligated to pay for same until a written authorization to proceed (Notice to Proceed) has been sent to CONSULTANT from COUNTY. Services shall be furnished in accordance with the CONSULTANT'S schedule as presented in Exhibit "\_\_\_" entitled, - "Schedule of Work". The CONSULTANT shall begin work under this Agreement no later than five (5) days after the effective date of notification to proceed.

**[OPTIONAL; WHERE APPLICABLE]**

A stop work order issued to the CONSULTANT shall be the only means of suspending the time

of performance of work under the Agreement. The time of performance of work as reference on

Exhibit "\_\_\_" does not include time for reviews for the project by the County, it's authorized

representative, \_\_\_\_\_ or any other agencies reviewing the project. Time charges shall cease

when a phase specified in the engineering fee proposal has been completed to the satisfaction of

the COUNTY'S authorized representative.

**[OPTIONAL; WHERE APPLICABLE]**

---

**The COUNTY'S Authorized Representative with respect to the Project shall issue a stop work**

**order for the time of performance for work to the CONSULTANT once all tasks of each phase**

**is considered accepted and fulfilled as specified in the engineering fee proposal. A notice to**

**proceed shall be issued to the CONSULTANT for the next phase of work and shall address the**

total time of performance of work remaining on the contract.

**ARTICLE 9. CONTRACT TERM:**

**ELDRIDGE, HOW WILL THIS BE FUNDED? HOW WAS IT PRESENTED TO THE BOC, AS TO FUNDING? FOR INSTANCE, DID YOU ENCUMBER ALL OF THE FUNDS UP FRONT TO COVER THE JULY 1, 2005 TO JULY 1, 2006 PERIOD. YOU ARE AWARE THAT ALL FUNDING GOES TO ZERO ON DECEMBER 31, AND YOU MAY HAVE TO DO A RENEWAL UNLESS THE ENTIRE FUNDS WERE ENCUREMBERED FOR THE CONTRACT TERM. [NOTE: ARTICLE 9 WILL CHANGE DEPENDING ON FUNDING SOURCE]**

The term of this Agreement shall commence within the year of execution and continue for a total of 12 calendar months. The COUNTY reserves the right to renew the contract for a total of \_\_\_\_ (\_\_\_\_) consecutive one-year periods, subject to the allocation of funding for such successive calendar year, and satisfactory contractor's performance and defined elsewhere in the contract. Non renewal of the Agreement shall not result in a claim for payment or damages by Consultant, except that the Consultant shall be paid for actual services rendered through the date of termination.

**ARTICLE 10. COMPENSATION AND PAYMENT FOR CONSULTANT SERVICES:**

Compensation for work performed by CONSULTANT on PROJECT shall be on the basis of rates shown in Section \_\_\_\_ .

The total contract amount for the Project shall not exceed

\$\_\_\_\_\_.00, which is full payment for a complete scope of

services. Invoices for payment shall be submitted to COUNTY by

the first (1st) calendar day of the month to facilitate

processing for payment in that same month. Invoices received

---

after the first (1st) calendar day of the month may not be paid until the last day of the following month.

The CONSULTANT may submit to the COUNTY, an invoice, in a form acceptable to the COUNTY and accompanied by all support documentation requested by the COUNTY, for payment and for services that were completed during the preceding phase. The COUNTY shall review for approval said invoices. The COUNTY shall have the right not to pay any invoice or part thereof if not properly supported, or if the costs requested or a part thereof, as determined by the COUNTY, are reasonably in excess of the actual stage of completion. Disputes concerning the payment of submitted invoices shall be resolved pursuant to the dispute process outlined in Article 13. The COUNTY shall pay each such invoice or portion thereof as approved, provided that the approval or payment of any such invoice shall not be considered to be evidence of the performance of the CONSULTANT to the point indicated by such invoice, or receipt of acceptance by the COUNTY of the services covered by such invoice. The COUNTY shall promptly pay any undisputed items contained in such invoices. As a minimum, each invoice shall include a narrative describing the total work accomplished for each phase, an accurate updated schedule, a description of the percentage of total work completed for each phase through the date of the

---

statement, and an updated draw-down of the Task-Discipline Matrix submitted with the CONSULTANT'S cost proposal.

The consultant must certify in writing that all subconsultants of the CONSULTANT and suppliers have been promptly paid for work and materials and previous progress payments received. In the event the prime consultant is unable to pay sub subconsultants or suppliers until it has received a progress payment from Fulton County, the prime consultant shall pay all subconsultants or suppliers funds due from said progress payments within forty-eight (48) hours of receipt of payment from Fulton County and in no event later than fifteen days as provided for by State Law.

CONSULTANT agrees that the compensation provided within shall be full and final settlement of all claims arising against COUNTY for work done, materials furnished, cost incurred or otherwise arising out of this AGREEMENT and shall release COUNTY from any and all further claims related to payment for services and materials furnished in connection with this Agreement.

County shall not be responsible for any interest penalty for any late payment.

ARTICLE 11. **PERSONNEL AND EQUIPMENT:** CONSULTANT shall identify in writing a project manager who shall have sole authority to represent CONSULTANT on all manners pertaining to this contract.

CONSULTANT represents that it has secured or will secure, at its' own expense, all equipment and personnel necessary to complete this Agreement, none of whom shall be employees of or have any contractual relationship with COUNTY. All of the services required hereunder will be performed by CONSULTANT under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.

Key personnel, including subcontractors, engaged in performing services for CONSULTANT under this Agreement are indicated in Exhibit \_\_ entitled, - "Key Personnel Listing." Written notification shall be immediately provided to COUNTY upon change or severance of any listed key personnel or subcontractor performing services on this Project by CONSULTANT. No changes or substitutions shall be permitted in CONSULTANT'S key personnel or subcontractor as set forth herein without the prior written approval of the COUNTY. Requests for changes in key personnel or subcontractors will not be unreasonably withheld by COUNTY. Changing of key personnel or subcontractor during the course of this Project shall constitute a cause for termination under the terms outlined in **ARTICLE 14. TERMINATION OF AGREEMENT FOR CAUSE** of this AGREEMENT.

CONSULTANT shall employ those people, who are in responsible charge of supervision on the work performed on this Project, duly registered in the State of Georgia in the appropriate area.

---

CONSULTANT shall endorse all deliverables including reports, and contract plans. Such endorsements shall be made by a person duly registered for such services by the governing authority authorized by the State of Georgia, being in the full employ of CONSULTANT and responsible for the work prescribed by this Agreement.

ARTICLE 12. **SUSPENSION OF WORK:** COUNTY may order CONSULTANT in writing to suspend, delay or interrupt all or any part of the work for such period of time as he may determine appropriate for the convenience of COUNTY, or for delays caused by third parties not in any way affiliated with the CONSULTANT. The time for completion of the Project shall be extended by the number of days the work is suspended. COUNTY shall not be responsible for any claims, damages or cost stemming from any delay of the project.

ARTICLE 13. **DISPUTES:** Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the COUNTY'S Authorized Representative. The representative shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the CONSULTANT. The CONSULTANT shall have 30 days from date of receipt to appeal the decision to the County Manager or his designee by mailing or otherwise furnishing to the County Manager or designee, copy of the written appeal. The decision of the County Manager or his designee for the determination of such appeal shall be final and conclusive. This condition shall not be pleaded in any suit involving a question of fact arising under this Agreement, unless the same is fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, CONSULTANT shall be afforded an opportunity to be heard and to offer evidence in support of an appeal. Pending any final decision of a dispute hereunder, CONSULTANT shall proceed diligently with performance of the Agreement and in accordance with the Risk Manager.

ARTICLE 14. **TERMINATION OF AGREEMENT FOR CAUSE:** Either COUNTY or CONSULTANT may terminate work under this Agreement in the event the other party fails to perform in accordance with the provisions of the Agreement. Any party seeking to terminate this Agreement is required to give thirty (30) days prior written notice to the other party. Notice of termination shall be delivered by certified mail with receipt for delivery returned to the sender. The Risk Manager is expressly delegated with the authority, after consultation with the County Manager, to terminate the Agreement on behalf of COUNTY.

**TIME IS OF THE ESSENCE** and if the CONSULTANT refuses or fails to perform the work, maintain the scheduled level of effort as proposed and described in Exhibit "\_\_\_" entitled, - Schedule of Work, or any separable part thereof, with such diligence as will insure completion of the work within the specified time period, as more thoroughly described in Article 8 (**where Article 8 is a part of the Agreement**), or any extension or tolling there of, or fails to complete said work within such time. Failure to maintain the scheduled level of effort as proposed or deviation from the aforesaid proposal without prior approval of COUNTY, shall constitute cause for termination.

The COUNTY may, by written notice to CONSULTANT, terminate CONSULTANT'S right to proceed with the Project or such part of the Project as to which there has been delay. In such

---

event, the COUNTY may take over the work and perform the same to completion, by contract or otherwise, and CONSULTANT shall be required to provide all copies of finished or unfinished documents prepared by CONSULTANT under this Agreement to the COUNTY as stated in Exhibit "\_\_\_" entitled, – Deliverables. CONSULTANT shall be entitled to receive compensation for any satisfactory work completed on such documents as reasonably determined by County. Whether or not the CONSULTANT'S right to proceed with the work has been terminated, the CONSULTANT shall be liable for any damage to the COUNTY resulting from the CONSULTANT'S refusal or failure to complete the work within the specified time period, and said damages shall include, but not be limited to, any additional costs associated with the COUNTY obtaining the services of another Consultant to complete the design of the project.

ARTICLE 15. **TERMINATION FOR CONVENIENCE OF COUNTY:** Notwithstanding any other provisions, COUNTY may terminate this Agreement for its convenience at any time by a written notice to CONSULTANT. If the Agreement is terminated for convenience by COUNTY as provided in this article, CONSULTANT will be paid compensation for those services actually performed. Partially completed tasks will be compensated for based on a signed statement of completion to be submitted by CONSULTANT which shall itemize each task element and briefly state what work has been completed and what work remains to be done. The Risk Manager is expressly delegated with the authority, after consultation with the County Manager, to terminate the Agreement on behalf of COUNTY.

ARTICLE 16. **WAIVER OF BREACH:** The waiver by either party of a breach or violation of any provision of this Agreement, shall not operate or be construed to be, a waiver of any subsequent breach or violation of the same or other provision thereof.

ARTICLE 17. **INDEPENDENT CONTRACTOR:** CONSULTANT shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be constructed to be inconsistent with relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute CONSULTANT or any of its agents or employees to be the agent, employee or representative of COUNTY.

ARTICLE 18. **RESPONSIBILITY OF CONSULTANT:** CONSULTANT is employed to render a professional service only and any payments made to CONSULTANT are compensation solely for such services rendered and recommendations made in carrying out the work. CONSULTANT shall follow the practice of the \_\_\_\_\_ profession to make findings, opinions, factual presentations, professional advice and recommendations. Errors due to CONSULTANT'S failure to comply with standard engineering procedures shall be corrected in a time frame agreed to by COUNTY and at CONSULTANT'S expense.

ARTICLE 19. **COOPERATION WITH OTHER CONSULTANTS:** CONSULTANT will undertake the Project in cooperation with and in coordination with other studies, projects or related work performed for, with or by COUNTY'S employees, appointed committee(s) or other consultants. CONSULTANT shall fully cooperate with such other related consultants and COUNTY employees or appointed committees. CONSULTANT shall provide within his schedule of work, time and effort to coordinate with other consultants under contract with

---

COUNTY. CONSULTANT shall not commit or permit any act, which will interfere with the performance of work by any other consultant or by COUNTY employees. CONSULTANT shall not be liable or responsible for the delays of third parties not under its control nor affiliated with the CONSULTANT in any manner.

ARTICLE 20. **ACCURACY OF WORK:** CONSULTANT shall be responsible for the accuracy of his work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the COUNTY will not relieve CONSULTANT of the responsibility of subsequent corrections of any errors and the clarification of any ambiguities. CONSULTANT shall prepare any plans, report, fieldwork, or data required by COUNTY to correct its errors or omissions. The above consultation, clarification or correction shall be made without added compensation to consultant. CONSULTANT shall give immediate attention to these changes so there will be a minimum of delay to others.

ARTICLE 21. **REVIEW OF WORK:** Authorized representatives of COUNTY may at all reasonable times review and inspect Project activities and data collected under this Agreement and amendments thereto. All reports, drawings, studies, specifications, estimates, maps and computations prepared by or for CONSULTANT, shall be available to authorized representatives of COUNTY for inspection and review at all reasonable times in the main office of COUNTY. Acceptance shall not relieve CONSULTANT of its professional obligation to correct, at its expense, any of its errors in work. COUNTY may request at any time and CONSULTANT shall produce progress prints or copies of any work as performed under this Agreement. Refusal by CONSULTANT to submit progress reports and/or plans shall be cause for COUNTY, without any liability thereof, to withhold payment to CONSULTANT until CONSULTANT complies with COUNTY'S request in this regard. COUNTY'S review recommendations shall be incorporated into the plans by CONSULTANT.

ARTICLE 22. **INDEMNIFICATION:** The CONSULTANT shall indemnify, defend and hold harmless the COUNTY, its officers, agents, employees and successors and assigns from and against any and all liability, loss, damages, claims, suits, liens, and judgments including attorneys fees, of whatever nature, including claims for contributions and/or indemnification, for injuries to or death or any person or persons, or damage to property or other rights of any person or persons caused by (1) any failure by the CONSULTANT to perform its obligations under this Agreement; (2) the negligent, intentional or willful misconduct of the CONSULTANT or any of its officers, directors, employees, representatives, agents or Subcontractors in connection with this Agreement; (3) CONSULTANT'S fault; or (4) the performance of the CONSULTANT'S obligations under this Agreement. The CONSULTANT shall also indemnify the COUNTY to the extent provided elsewhere in this Agreement. To the extent there is a determination that CONSULTANT has acted as an agent of the COUNTY, the CONSULTANT is specifically excluded from the term "agent" mentioned in the previous sentence, such that COUSULTANT will be required to comply with the requirements of this Article. CONSULTANT'S obligation to protect, defend, indemnify, and hold harmless, as set forth hereinabove, shall also include but not limited to any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or any actual or alleged unfair competition disparagement of produce or service, or other business tort of any type whatsoever, or any actual or alleged violation of

---

trade regulations. CONSULTANT shall not indemnify or hold harmless the COUNTY for the sole acts or omissions of employees or officers of the COUNTY.

CONSULTANT further agrees to protect, defend, indemnify and hold harmless COUNTY, its officers, agents and employees from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employees of CONSULTANT. These CONSULTANT'S indemnities shall not be limited by reason of the listing of any insurance coverage.

These indemnity provisions are for the protection of the COUNTY indemnities only and shall not establish, of themselves, any liability to third parties. The provisions of this ARTICLE shall survive termination of this Agreement.

**ARTICLE 23. CONFIDENTIALITY:** CONSULTANT agrees that its conclusions and any reports are for the confidential information of COUNTY and that it will not disclose its conclusions in whole or in part to any persons whatsoever, other than to submit its written documentation to COUNTY, and will only discuss the same with it or its authorized representatives, except as required under this Agreement to provide information to the public. Upon completion of this Agreement term, all documents, reports, maps, data and studies prepared by consultant pursuant thereto and any equipment paid for by COUNTY as a result of this Agreement, shall become the property of COUNTY and be delivered to the Director of the DEPARTMENT.

Articles, papers, bulletins, reports, or other materials reporting the plans, progress, analyses, or results and findings of the work conducted under this Agreement shall not be presented publicly or published without prior approval in writing of COUNTY.

It is further agreed that if any information concerning the Project, its conduct results, or data gathered or processed should be released by CONSULTANT without prior approval from COUNTY, the release of the same shall constitute grounds for termination of this Agreement without indemnity to CONSULTANT, but should any such information be released by COUNTY or by CONSULTANT with such prior written approval, the same shall be regarded as Public information and no longer subject to the restrictions of this Agreement.

**ARTICLE 24. OWNERSHIP OF INTELLECTUAL PROPERTY AND INFORMATION:** CONSULTANT agrees that Fulton County is the sole owner of all information, data, and materials (hereafter "Information") that are developed or prepared subject to this Agreement. CONSULTANT or any Subcontractor is not allowed to use or sell such Information subject to this AGREEMENT for educational, publication, profit, research or any other purpose without the written and authorized consent of the Director of the Department of Public Works. All electronic files used in connection to this Agreement, which are by definition, any custom software developed by CONSULTANT, or commercially available software procured by CONSULTANT, pursuant to this Agreement, (collectively, the "Software"), shall be turned over to the COUNTY for its use after termination hereof and CONSULTANT shall have no interest of any kind in such electronic files. Any required licenses and fees for the Software or other required materials shall be purchased and/or paid for by CONSULTANT and registered in the



---

name of the Director of the Department of Finance, if possible. The Software as defined hereunder, specifically excludes all software, documentation, information, and materials in which CONSULTANT has pre-existing proprietary rights and/or has otherwise been licensed to Consultant prior to this Agreement, and any upgrades, updates, modifications or enhancements thereto. CONSULTANT agrees to provide at no cost to COUNTY any upgrades to any Software used in connection with this Agreement which may be subsequently developed or upgraded for a period of three (3) years from the date of completion of the work under this Agreement, except in the case of commercial Software licensed to the COUNTY or Director of the Department of Finance. Any Information developed for use in connection with this Agreement may be released as public domain information by the COUNTY at its sole discretion.

ARTICLE 25. **COVENANT AGAINST CONTINGENT FEES:** CONSULTANT warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees maintained by CONSULTANT for the purpose of securing business and that CONSULTANT has not received any non-COUNTY fee related to this Agreement without the prior written consent of COUNTY. For breach or violation of this warranty, COUNTY shall have the right to annul this Agreement without liability or at its discretion to deduct from the Contract Price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

ARTICLE 26. **INSURANCE:** CONSULTANT shall furnish certificates to COUNTY for the following minimum amounts or levels of insurance coverage:

Section 1.01        **Workman's Compensation Insurance** in accordance with the laws of the State of Georgia and in an amount not less than Five Hundred Thousand Dollars (\$500,000) per employee, Five Hundred Thousand Dollars (\$500,000) per occurrence, and Five hundred Thousand Dollars (\$500,000) per employee per disease.

Section 1.02        **General Aggregate** in an amount not less than Two Million Dollars (\$2,000,000).

Section 1.03        **General Liability Insurance** in an amount not less than One Million Dollars (\$1,000,000) for bodily injury and/ or property damages per occurrence.

Section 1.04        **Professional Liability Insurance** in an amount that equals or exceeds the amount of fees for the AGREEMENT. If coverage is issued on a claims-made basis, a policy should be kept in force at least twenty-four (24) months after completion and acceptance of the PROJECT.

Section 1.05        **Comprehensive Automobile Liability Insurance**, including operation of owned, non-owned and hired automobiles, covering bodily injury and/or property damage with limits of One Million Dollars (\$1,000,000) per occurrence.

---

Section 1.06      **Valuable Papers Insurance** in an amount sufficient to assure the restoration of any plans, drawings, field notes, or other similar data relating to the work covered by the project and the Agreement.

All insurance shall contain a provision that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to COUNTY. All such insurance shall remain in effect until final payment is made and the project is accepted by COUNTY. If CONSULTANT receives notice of non-renewal or material adverse change of any of the above coverages, CONSULTANT will promptly advise COUNTY in writing. Failure of CONSULTANT to promptly notify COUNTY on non-renewal or material adverse change of any of the above coverages terminates Agreement as of the date that CONSULTANT should have given notification to COUNTY.

If COUNTY has any objections to the coverage afforded by or provisions of the insurance required to be purchased and maintained by CONSULTANT, COUNTY will notify CONSULTANT thereof within twenty (20) days of the date of delivery of such certificates to COUNTY.

CONSULTANT will provide to COUNTY such additional information in respect of insurance provided by him as COUNTY may reasonably request. The right of COUNTY to review and comment on Certificates of Insurance is not intended to relieve CONSULTANT of his responsibility to provide insurance coverage as specified nor to relieve CONSULTANT of his liability for any claims which might arise.

**ARTICLE 27. PROHIBITED INTEREST:**

Section 27.1   Conflict of Interest: CONSULTANT agrees that it presently has no interest and shall acquire no interest direct or indirect that would conflict in any manner or degree with the performance of its service hereunder. CONSULTANT further agrees that, in the performance of the Agreement, no person having any such interest shall be employed.

Section 27.2   Interest of Public Officials: No member, officer or employee of COUNTY during his tenure shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

**ARTICLE 28. SUBCONTRACTING:** Except as identified in Exhibit “\_\_\_” entitled, - “Key Personnel Listing”, CONSULTANT shall not subcontract any part of the work covered by this Agreement or permit subcontracted work to be further subcontracted without prior written approval of COUNTY.

**ARTICLE 29. ASSIGNABILITY:** CONSULTANT shall not assign or subcontract this Agreement or any portion thereof without the prior expressed written consent of COUNTY. Any attempted assignment (including factoring arrangements) or subcontracting by CONSULTANT without the prior expressed written consent of COUNTY shall at COUNTY’S sole option terminate this Agreement without any notice to CONSULTANT of such termination. CONSULTANT binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, Agreements and obligations contained herein.

---

ARTICLE 30. **ANTI-KICKBACK CLAUSE:** Salaries of engineers, surveyors, draftsmen, clerical and technicians performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law. CONSULTANT hereby promises to comply with all applicable "Anti-Kickback" Laws, and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

ARTICLE 31. **AUDITS AND INSPECTORS:** At any time during normal business hours and as often as COUNTY may deem necessary, CONSULTANT shall make available to COUNTY and/or representatives of the COUNTY for examination all of its records with respect to all matters covered by this Agreement.

It shall also permit COUNTY and/or representative of the COUNTY to audit, examine and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. CONSULTANT'S records of personnel, conditions of employment, and financial statements (hereinafter "Information") constitute trade secrets and are considered confidential and proprietary by CONSULTANT. To the extent COUNTY audits or examines such Information related to this Agreement, COUNTY shall not disclose or otherwise make available to third parties any such Information without CONSULTANT'S prior written consent unless required to do so by a court order. Nothing in this Agreement shall be construed as granting COUNTY any right to make copies, excerpts or transcripts of such Information outside the area covered by this Agreement without the prior written consent of CONSULTANT. CONSULTANT shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement and for three years from the date of final payment under the Agreement, for inspection by COUNTY or any reviewing agencies and copies thereof shall be furnished upon request and at no additional cost to COUNTY. CONSULTANT agrees that the provisions of this Article shall be included in any Agreements it may make with any subcontractor, assignee or transferee.

ARTICLE 32. **ACCOUNTING SYSTEM:** CONSULTANT shall have an accounting system, which is established, and maintaining in accordance with generally accepted accounting principles. CONSULTANT must account for cost in a manner consistent with generally accepted accounting procedures, as approved by Fulton County.

ARTICLE 33. **VERBAL AGREEMENT:** No verbal agreement or conversation with any officer, agent or employee of COUNTY either before, during or after the execution of this Agreement shall affect or modify any of the terms of obligations herein contained, nor shall such verbal agreement or conversation entitle CONSULTANT to any additional payment whatsoever under the terms of this Agreement. All changes to this shall be in writing and the form of a change order approved by the COUNTY, and entered on the Minutes of the Board of Commissioners.

---

ARTICLE 34. **NOTICES:** All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice to the COUNTY, shall be addressed as follows:

Department of Finance, Risk Management Division  
141 Pryor Street, S.W., Suite 7000  
Atlanta, Georgia 30303

Notices to CONSULTANT shall be addressed as follows:

ARTICLE 35. **JURISDICTION:** This Agreement shall be administered and interpreted under the laws of the State of Georgia. Jurisdiction of litigation arising from this Agreement shall be in that state. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect.

Whenever reference is made in the Agreement to standards or codes in accordance with which work is to be performed, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

ARTICLE 36. **EQUAL EMPLOYMENT OPPORTUNITY:** During the performance of this Agreement, CONSULTANT agrees as follows:

Section 36.1 CONSULTANT will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin;

Section 36.2 CONSULTANT will, in all solicitations or advertisements for employees placed by, or on behalf of, CONSULTANT state that all qualified applicants, will receive consideration for employment without regard to race, creed, color, sex or national origin;

Section 36.3 CONSULTANT will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provision will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

ARTICLE 37. **FORCE MAJEURE:** Neither COUNTY nor CONSULTANT shall be deemed in violation of this AGREEMENT if either is prevented from performing its obligations hereunder for any reason beyond its control, including but not limited to acts of GOD, civil or military authority, act of public enemy, accidents, fires, explosions, earthquakes, floods or catastrophic failures of public transportation, provided however, that nothing herein shall relieve or be construed to relieve CONSULTANT from performing its obligations hereunder in the event of riots, rebellions or legal strikes.

ARTICLE 38. **OPEN RECORDS ACT:** The Georgia Open Records Act, O. C.G.A. Section 50-18-70 et seq., applies to this AGREEMENT. The CONSULTANT acknowledges that any

---

documents or computerized data provided to the COUNTY by the Consultant may be subject to release to the public. The CONSULTANT also acknowledges that documents and computerized data created or held by The CONSULTANT in relation to the Agreement may be subject to release to the public, to include documents turned over to the COUNTY. The CONSULTANT shall cooperate with and provide assistance to the COUNTY in rapidly responding to Open Records Act requests. The CONSULTANT shall notify the COUNTY of any Open Records Act requests no later than 24 hours following receipt of any such requests by the CONSULTANT. The CONSULTANT shall promptly comply with the instructions or requests of the COUNTY in relation to responding to Open Records Act requests.

**ARTICLE 39. CONSULTANT'S COMPLIANCE WITH ALL ASSURANCES AND/OR PROMISES MADE IN RESPONSE TO PROCUREMENT:** Should any proposer (bidder) submit a response to the County promising to provide a certain level of service for either the scope of work, MFBE participation, or any other matter, including where such promise or assurance is greater than what is required by the procurement documents, and should this response containing the promise or assurance be accepted by the County and made a part of the Contract Documents, then this degree or level of service promised by the proposer (bidder) relating to the scope of work, MFBE participation, or other matter shall be considered to be a material part of the Agreement between the proposer (bidder) and the County, such that the proposer's (bidder's) failure to provide the agreed upon degree or level of service or participation shall be a material breach of the Agreement giving the County just cause to terminate the Agreement for cause, pursuant to Article 14 of the Agreement.

[SIGNATURES ON NEXT PAGE]

---

WITNESS WHEREOF, each of the parties hereto has caused **Agreement** to be executed and delivered on this, the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Attest:

\_\_\_\_\_ By: \_\_\_\_\_

Title: \_\_\_\_\_

Seal (Affix)

Attest:

**FULTON COUNTY, GEORGIA**

\_\_\_\_\_ By: \_\_\_\_\_  
Mark Massey, Clerk to the Commission Chair, Karen Handel  
Board of Commissioners

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

By: \_\_\_\_\_ By: \_\_\_\_\_  
Office of County Attorney Department of Finance, Risk  
Management Division]

---

**SAMPLE FINAL AFFIDAVIT**

TO FULTON COUNTY, GEORGIA

I, \_\_\_\_\_, hereby certify that all suppliers of materials, equipment and service, subcontractors, mechanic, and laborers employed by \_\_\_\_\_ or any of his subcontractors in connection with the design and/or construction of \_\_\_\_\_ at Fulton County have been paid and satisfied in full as of \_\_\_\_\_, 20\_\_\_\_, and that there are no outstanding obligations or claims of any kind for the payment of which Fulton County on the above-named Project might be liable, or subject to, in any lawful proceeding at law or in equity.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.  
\_\_\_\_\_, who under Oath deposes and says that he is  
\_\_\_\_\_ of the firm of \_\_\_\_\_, that he has read the  
above statement and that to the best of his knowledge and belief same is an exact true statement.

\_\_\_\_\_  
Notary Public

Commission expires:

\_\_\_\_\_

---

## **SECTION 8A**

### **PERFORMANCE BOND REQUIREMENTS**

No contract with Fulton County for work to be done shall be valid for any purpose unless the Contractor shall give a Performance Bond with good and sufficient surety payable to, in favor of and for the protection of Fulton County. The Performance Bond shall be in the amount of \$5,000 payable by the terms of the Contract and shall be written on the enclosed form.

Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business as a surety in Georgia.

Attestation for the corporation must be by the corporate officer; for a partnership by another partner; for an individual by a notary with the corporate seal.



---

## **PERFORMANCE BOND**

**KNOW ALL MEN BY THESE PRESENTS** [INSERT CONTRACTOR NAME] (hereinafter called the "Principal") and [insert name of surety] (hereinafter called the "Surety"), are held and firmly bound unto **FULTON COUNTY**, a political subdivision of the State of Georgia (hereinafter called the "Owner") and their successors and assigns, the penal sum of [\$5,000], lawful money of the United States of America, for the payment of which the principal and the Surety bind themselves, their administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the Principal has entered, or is about to enter, into a certain written contract (Contract) with the Owner, dated \_\_\_\_\_, which is incorporated herein by reference in its entirety, for the [NAME OF PROJECT], more particularly described in the Contract (herein called the "Project"); and

**NOW, THEREFORE**, the conditions of this obligation are as follows, that if the Principal shall fully and completely perform all the undertakings, covenants, terms, conditions, warranties, and guarantees contained in the Contract, including all modifications, amendments, changes, deletions, additions, and alterations thereto that may hereafter be made, then this obligation shall be void; otherwise it shall remain in full force and effect.

Whenever the Principal shall be, and declared by the Owner to be, in default under the Construction-Type Contract, the Surety shall promptly remedy the default as follows:

1. Complete the Contract in accordance with its terms and conditions; or, at the sole option of the Owner,
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the Surety and the Owner of the lowest responsible bidder, arrange for a contract between such bidder and Owner and make available as the work progresses (even though there should be a default or succession of defaults under the Contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the penal sum set forth in the first paragraph hereof, as may be adjusted, and the Surety shall make available and pay to the Owner the funds required by this Paragraph prior to the payment of the Owner of the balance of the contract price, or any portion thereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by the Owner

---

to the Contractor under the Contract, and any amendments thereto, less the amount paid by the Owner to the Contractor; or, at the sole option of the Owner,

3. Allow Owner to complete the work and reimburse the Owner for all reasonable costs incurred in completing the work.

In addition to performing as required in the above paragraphs, the Surety shall indemnify and hold harmless the Owner from any and all losses, liability and damages, claims, judgments, liens, costs and fees of every description, including reasonable attorney's fees, litigation costs and expert witness fees, which the Owner may incur, sustain or suffer by reason of the failure or default on the part of the Principal in the performance of any or all of the terms, provisions, and requirements of the Contract, including any and all amendments and modifications thereto, or incurred by the Owner in making good any such failure of performance on the part of the Principal.

The Surety shall commence performance of its obligations and undertakings under this Bond promptly and without delay, after written notice from the Owner to the Surety.

The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and any other amendments in or about the Contract, and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alterations, extensions of time, change in payment terms, and amendments.

The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment to the Contract, so as to bind the Principal and the Surety to the full and faithful performance of the Contract as so amended or modified, and so as to increase the penal sum to the adjusted Contract Price of the Contract.

No right of action shall accrue on this Bond to or for the use of any person, entity or corporation other than the Owner and any other obligee named herein, or their executors, administrators, successors or assigns.

This Bond is intended to comply with O.C.G.A. Section 36-91-1 et seq., and shall be interpreted so; as to comply with; the minimum requirements thereof. However, in the event the express language of this Bond extends protection to; the Owner beyond that contemplated by O.C.G.A. Section 36-91-1 et seq. and O.C.G.A. Section 13-10-1, as amended, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the Owner, whether or not such protection is found in the applicable statutes.

---

**IN WITNESS WHEREOF** the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this \_\_\_\_\_ day of \_\_\_\_\_.

(SEAL)

(Principal)

By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary

(SEAL)

(Surety)

By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
\_\_\_\_\_(Address of Surety's Home Office)

---

---

(Resident Agent of Surety)

**END OF SECTION NO. 8A**

## **SECTION 8B**

### **PAYMENT BOND REQUIREMENTS**

No Contract with Fulton County for work to be done shall be valid for any purpose unless the Contractor shall give a Payment Bond with good and sufficient surety payable to Fulton County for the use and protection of all sub-contractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the Contract. The Payment Bond shall be in the amount of \$5,000 payable by the terms of the Contract and shall be written on the following form.

Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Georgia.

Attestation for the corporation must be by the corporate officer; for a partnership by another partner; for an individual by a notary with the corporate seal.

## **PAYMENT BOND**

**KNOW ALL MEN BY THESE PRESENTS** that [insert name of contractor] (hereinafter called the "Principal") and [insert name of surety] (hereinafter called the "Surety"), are held and firmly bound unto **FULTON COUNTY**, a political subdivision of the State of Georgia (hereinafter called the "Owner"), its successors and assigns as obligee, in the penal sum of [\$5,000], lawful money of the United States of America, for the payment of which the Principal and the Surety bind themselves, their administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the Principal has entered, or is about to enter, into a certain written contract with the Owner, dated [insert date of contract], which is incorporated herein by reference in its entirety (hereinafter called the "Contract"), for construction-type services of a project known as [insert name of project], as more particularly described in the Contract (hereinafter called the "Project");

**NOW, THEREFORE**, the condition of this obligation is such that if the Principal shall promptly make payment to all persons working on or supplying labor or materials under the Contract, and any amendments thereto, with regard to labor or materials furnished and used in the Project, and with regard to labor or materials furnished but not so used, then this obligation shall be void; but otherwise it shall remain in full force and effect.

1. A "Claimant" shall be defined herein as any subcontractor, person, party, partnership, corporation or the entity furnishing labor, services or materials used, or reasonably required for use, in the performance of the Contract, without regard to whether such labor, services or materials were sold, leased or rented, and without regard to whether such Claimant is or is not in privity of contract with the Principal or any subcontractor performing work on the Project, including, but not limited to, the following labor, services, or materials: water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. In the event a Claimant files a lien against the property of the Owner, and the Principal fails or refuses to satisfy or remove it promptly, the Surety shall satisfy or remove the lien promptly upon written notice from the Owner, either by bond or as otherwise provided in the Contract.

3. The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in the payment terms, and any other amendments in or about the Contract and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and amendments.

4. The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment or modifications to the Contract, so as to bind the Principal and Surety, jointly and severally, to the full payment of any Claimant under the Contract, as amended or modified, provided only that the Surety shall not be liable for more than the penal sum of the Bond, as specified in the first paragraph hereof.

5. This Bond is made for the use and benefit of all persons, firms, and corporations who or which may furnish any materials or perform any labor for or on account of the construction-type services to be performed or supplied under the Contract, and any amendments thereto, and they and each of them may sue hereon.

6. No action may be maintained on this Bond after one (1) year from the date the last services, labor, or materials were provided under the Contract by the Claimant prosecuting said action.

7. This Bond is intended to comply with O.C.G.A. Section 13-10-1, and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this Bond extends protection to the Owner beyond that contemplated by O.C.G.A. Section 13-10-1, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the Owner, whether or not such protection is found in the applicable statutes.

**IN WITNESS WHEREOF**, the Principal and Surety have hereunto affixed their corporate seals and caused this obligations to be signed by their duly authorized representatives this \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_.

(SEAL)

(Principal)

By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary

(SEAL)

(Surety)

By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
(Address of Surety's Home Office)

\_\_\_\_\_  
(Resident Agent of Surety)